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PUBLIC NOTICE

Sunshine Ordinance Task Force

January 11, 2006

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE

AGENDA

 Wednesday, January 11, 2006
 4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order

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Roll Call

DEC 21 2006

Agenda Changes

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1. Approval of minutes of December 14, 2005. (action item) (attachment)
2. 05034 Hearing on the status of the November 22, 2005 Order of Determination of Justine Augustine vs. San Francisco Animal Care & Control. (discussion and possible action) (attachment)
3. Discussion of possible amendments to Sections 67.7 to 67.12 of the Sunshine Ordinance
 - a. Sec. 67.7. Agenda Requirements; Regular Meetings.
 - b. Sec. 67.7-1. Public Notice Requirements.
 - c. Sec. 67.8. Agenda Disclosures: Closed Sessions.
 - d. Sec. 67.8-1. Additional Requirements for Closed Sessions.
 - e. Sec. 67.9. Agendas and Related Materials: Public Records.
 - f. Sec. 67.10 Closed Sessions: Permitted Topics
 - g. Sec. 67.11 Statement of Reasons for Closed Sessions
 - h. Sec. 67.12 Disclosure of Closed Session Discussions and Actions

Subsequent section(s) may be heard if time permits. (discussion and possible action item) (attachment)

4. Public comment on items not listed on the agenda. (no action) (no attachment)
5. Administrator's report. (attachment)
6. Announcements, questions, and future agenda items from Committee members. (discussion item) (5 min) (no attachment)

Adjournment Next regularly scheduled meeting February 8, 2006

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

1. Complainant presents his/her facts and evidence 5 minutes

Other parties of Complainant presents facts & evidence Up to 3 minutes each

2. City responds 5 minutes

Other parties of City respond Up to 3 minutes each

Above total speaking time for Complainant and City to be the same

3. Complainant presents rebuttal 3 minutes

4. Public comment Up to 3 minutes each

(Excluding Complainant & City response, witnesses)

5. Matter is with the Task Force for discussion and deliberation

6. Vote by Task Force

Note: Time must be adhered to

If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate

persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

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Board of Supervisors

Sunshine Ordinance Task Force

January 11, 2006

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE

MINUTES

Wednesday, January 11, 2006

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:10 p.m.

Roll Call Present: Knee, Comstock, Craven

Agenda Changes None

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

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1. Approval of minutes of December 14, 2005.

Motion to approve minutes of December 14, 2005. (Comstock / Craven)

Ayes: Knee, Comstock, Craven

2. 05034 Hearing on the status of the November 22, 2005 Order of Determination of Justin Augustine vs. San Francisco Animal Care and Control.

Speakers: Justin Augustine, Complainant

In accordance with Committee consensus, Chair Knee requested that a letter be drafted, for review by the Task Force, to be sent to the San Francisco Animal Care and Control acknowledging their efforts in getting the information to the complainant within the time frame specified by the Task Force.

3. Discussion of possible amendments to Sections 67.7 to 67.12 of the Sunshine Ordinance

Sec. 67.7 Agenda Requirements; Regular Meetings

Sec. 67.7-1 Public Notice Requirements

Sec. 67.8 Agenda Disclosures: Closed Sessions

Sec. 67.8-1 Additional Requirements for Closed Sessions

Sec. 67.9 Agendas and Related Materials: Public Records

Sec. 67.10 Closed Sessions; Permitted Topics

Sec. 67.11 Statement of Reasons for Closed Sessions

Sec. 67.12 Disclosure of Closed Session Discussions and Actions

Sections 67.7 to Sections 67.8-1 were discussed and the Administrator recorded recommended amendments.

In accordance with Committee consensus, Chair Knee instructed the Administrator to identify for discussion and possible action Sections 67.6 through 67.12 of the Sunshine Ordinance for next months agenda, and to note that subsequent sections may be heard if time permits.

The Committee will be reviewing the issues of noticed, publication of notice, publication and distribution of agendas, and noticed of closed sessions.

Additional discussion to include Article 10 regarding public notice and publication in newspapers.

Members agreed to change the meeting date from the second Wednesday of each month to the second Monday of each month, effective immediately.

4. Public comment on items not listed on the agenda.

Speakers: None

5. Administrator's report.

The Administrator made the report

Speakers: None

6. Announcements, questions, and future agenda items from Committee members.

Adjournment Meeting adjourned at 6:00 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force.


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Board of Supervisors

Sunshine Ordinance Task Force

February 13, 2006

SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE

AGENDA

Monday, February 13, 2006
 4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of January 11, 2006. (action item) (attachment)
2. 05021 Hearing on the status of the September 27, 2005 Order of Determination of Richard Midgett v. Controllers Office. (discussion and possible action) (attachment)
3. Discussion of possible amendments to Sections 67.6 to 67.12 of the Sunshine Ordinance
 - a. Sec. 67.6. Conduct of Business; Time and Place for Meetings.
 - b. Sec. 67.7 Agenda Requirements; Regular Meetings
 - c. Sec. 67.7-1 Public Notice Requirements
 - d. Sec. 67.8 Agenda Disclosures: Closed Sessions
 - e. Sec. 67.8-1 Additional Requirements for Closed Sessions
 - f. Sec. 67.9 Agendas and Related Materials: Public Records
 - g. Sec. 67.10 Closed Sessions; Permitted Topics
 - h. Sec. 67.11 Statement of Reasons for Closed Sessions
 - i. Sec. 67.12 Disclosure of Closed Session Discussions

and Actions

The Committee will be reviewing the issues of noticed, publication of notice, publication and distribution of agendas, and noticed of closed sessions.

Additional discussion to include Official News Papers in Chapter 2, Article IX of the Administrative Code regarding public notice and publication in newspapers.

Subsequent section(s) may be heard if time permits.

(discussion and possible action item) (attachment)

4. Report from Deputy City Attorney Llorente on Article 9, Section 2.80-2.81-4 of the San Francisco Administrative Code and its possible inclusion with the Sunshine amendments (discussion and possible action item)
5. Public comment on items not listed on the agenda. (no action) (no attachment)
6. Administrator's report. (attachment)
7. Announcements, questions, and future agenda items from Committee members. (discussion item) (5 min) (no attachment)

Adjournment Next regularly scheduled meeting March 13, 2006

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

1. Complainant presents his/her facts and evidence 5 minutes

Other parties of Complainant presents facts & evidence Up to 3 minutes each

2. City responds 5 minutes

Other parties of City respond Up to 3 minutes each

Above total speaking time for Complainant and City to be the same

3. Complainant presents rebuttal 3 minutes

4. Public comment Up to 3 minutes each

(Excluding Complainant & City response, witnesses)

5. Matter is with the Task Force for discussion and deliberation

6. Vote by Task Force

Note: Time must be adhered to

If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

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Board of Supervisors

Sunshine Ordinance Task Force

February 13, 2006

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE

MINUTES

Monday, February 13, 2006

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:01 p.m.

Roll Call Present: Knee, Comstock, Craven

Agenda Changes None

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

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1. Approval of minutes of January 11, 2006.
- Motion to approve minutes of January 11, 2006. (Comstock / Craven)
- Ayes: Knee, Comstock, Craven
2. 05021 Hearing on the status of the September 27, 2005 Order of Determination of Richard Midgett v. Controllers Office.
- Speakers: Richard Midgett, Complainant; Pamela Tebo, Department of Human Services; David Curto, Director of Contracts, Department of Human Services.
- After hearing from all parties in this matter the Committee did not take any action.
3. Discussion of possible amendments to Sections 67.6 to 67.12 of the Sunshine Ordinance
- a. Sec. 67.6 Conduct of Business; Time and Place for Meetings

- b. Sec. 67.7 Agenda Requirements; Regular Meetings
- c. Sec. 67.7-1 Public Notice Requirements
- d. Sec. 67.8 Agenda Disclosures: Closed Sessions
- e. Sec. 67.8-1 Additional Requirements for Closed Sessions
- f. Sec. 67.9 Agendas and Related Materials: Public Records
- g. Sec. 67.10 Closed Sessions; Permitted Topics
- h. Sec. 67.11 Statement of Reasons for Closed Sessions
- i. Sec. 67.12 Disclosure of Closed Session Discussions and Actions

Sections 67.6 to Sections 67.9 were discussed and the Administrator recorded recommended amendments.

The Committee reviewed and discussed issues of notice, publication of notice, publication and distribution of agendas, and notice of closed sessions. Additional discussion included Official News Papers in Chapter 2, Article IX of the Administrative Code regarding public notice and publication in newspapers.

In accordance with Committee consensus, Chair Knee asked Deputy City Attorney Llorente to explore the feasibility of adding a new section of the Sunshine Ordinance that combines the various notice requirements from the Sunshine Ordinance, the Charter, and the Administrative Code into one section and submit a preliminary report at the next Compliance and Amendments Committee meeting in March.

In accordance with Committee consensus, Chair Knee asked the Administrator to identify for discussion and possible action Sections 67.10 through 67.17 of the Sunshine Ordinance for the April 10, 2006 agenda, and to note that subsequent sections may be heard if time permits. Also, in addition to the regular meeting in April there will be a special meeting scheduled for April 17, 2006, solely to review possible amendments to the Sunshine Ordinance.

For the April 10 meeting the Committee will consider where to include a Sunshine Bill of Rights drafted by former Task Force Chairman James Chaffee.

4. Report from Deputy City Attorney Llorente on Article 9, Section 2.80 – 2.81-4 of the

San Francisco Administrative Code and its possible inclusion with the Sunshine amendments

Deputy City Attorney Llorente indicated that it would be possible to move/incorporate Article 9, Section 2.80 – 2.81-4 of the San Francisco Administrative Code into the proposed changes to the Sunshine Ordinance.

Member Craven disclosed that one of her clients is an official newspaper selected to represent the City, so that should there be any discussion regarding changing the authority over which newspaper to select, procedures, or selection criteria, she would recuse herself from the discussion.

5. Public comment on items not listed on the agenda.

Speakers: None

6. Administrator's report.

The Administrator made the report

Speakers: None

7. Announcements, questions, and future agenda items from Committee members.

Member Craven announced that she is speaking at Pegasus Books in Berkeley on Thursday at 7:30 PM regarding the Reporters Shield, in protecting confidential sources.

Member Comstock announced that PBS NOW will have a special program regarding Sunshine Week on March 17. Chair Knee indicated that NOW usually airs in San Francisco at 10 PM on KQED Channel 9

Chair Knee announced that the annual James Madison Awards dinner of the Society of Professional Journalists, Northern California Chapter, will take place on Thursday, March 16, at Sinbad's Restaurant in San Francisco. The awards are for persons who have furthered the cause of Sunshine and/or the First Amendment.

Member Craven provided the Administrator with the previously proposed language for Passive Meeting Bodies for inclusion in the amendments of the Sunshine Ordinance.

Adjournment Meeting adjourned at 6:35 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force.





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Board of Supervisors

Sunshine Ordinance Task Force

March 13, 2006 - Canceled

CANCELED

SUNSHINE ORDINANCE

TASK FORCE

March 13, 2006

Compliance and Amendments Committee Meeting

4:00 PM

Room 406

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Board of Supervisors

Sunshine Ordinance Task Force

April 10, 2006

Click on the item numbers below to obtain background materials. These files are provided in PDF format, and you must have the Adobe Acrobat Reader to access them. [Click here for info about obtaining Acrobat \(it's free\).](#)

SUNSHINE ORDINANCE TASK FORCE

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COMPLIANCE AND AMENDMENTS COMMITTEE

APR - 5 2006

AGENDA

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Monday, April 10, 2006

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4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of February 13, 2006. (action item) (attachment)
2. 06001 Hearing on the status of the March 28, 2006 Order of Determination of Anonymous vs. Mayors Office of Protocol. (discussion and possible action) (attachment)
3. Discussion of the Sunshine Ordinance 2005 Annual Report. (discussion and possible action) (attachment)
4. Discussion of possible amendments to Sections 67.6 to 67.12 of the Sunshine Ordinance. (discussion and possible action item) (attachment)
 - a. Sec. 67.10 Closed Sessions; Permitted Topics
 - b. Sec. 67.11 Statement of Reasons for Closed Sessions

- c. Sec. 67.12 Disclosure of Closed Session Discussions and Actions
- d. Sec. 67.13 Barriers to Attendance Prohibited.
- e. Sec. 67.14 Tape Recording, Filing and Still Photography
- f. Sec. 67.15 Public Testimony
- g. Sec. 67.16 Minutes
- h. Sec. 67.17 Public Comment by Members of Policy Bodies

Subsequent section(s) may be heard if time permits.

- 5. Public comment on items not listed on the agenda. (no action) (no attachment)
- 6. Administrator's report. (attachment)
- 7. Announcements, questions, and future agenda items from Committee members. (discussion item) (5 min) (no attachment)

Adjournment.

Special meeting scheduled April 17, 2006, to continue discussion of possible amendments to the sunshine ordinance.

Next regularly scheduled meeting May 8, 2006.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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- 1. Complainant presents his/her facts and evidence 5 minutes

Other parties of Complainant presents facts & evidence Up to 3 minutes each

- 2. City responds 5 minutes

Other parties of City respond Up to 3 minutes each

Above total speaking time for Complainant and City to be the same

- 3. Complainant presents rebuttal 3 minutes

- 4. Public comment Up to 3 minutes each

(Excluding Complainant & City response, witnesses)

5. Matter is with the Task Force for discussion and deliberation

6. Vote by Task Force

Note: Time must be adhered to

If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

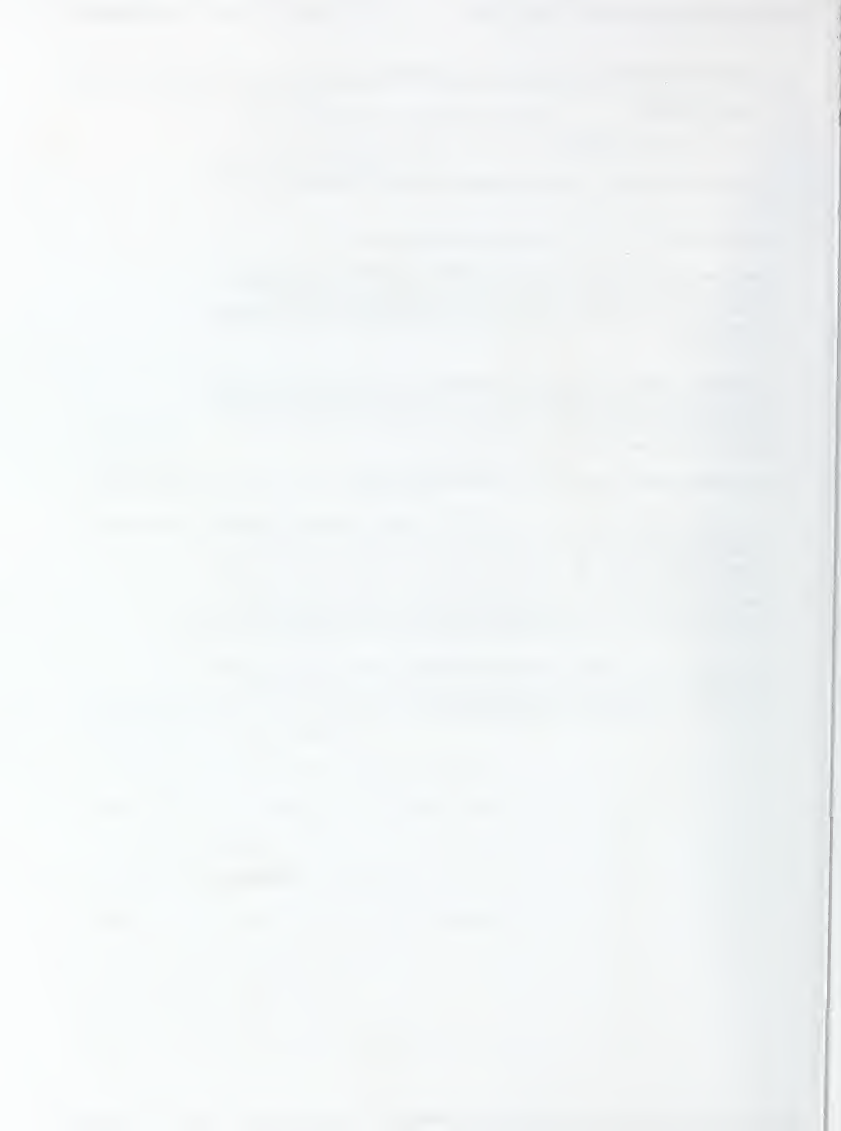
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Board of Supervisors

Sunshine Ordinance Task Force

April 10, 2006

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE

MINUTES

Monday, April 10, 2006

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:12 p.m.

Roll Call Present: Knee, Comstock (arrived at 4:25), Craven

Agenda Changes None

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

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1. Approval of minutes of February 13, 2006.

Motion to approve minutes of February 13, 2006. (Craven / Knee)

Ayes: Knee, Craven

Absent: Comstock
2. 06001 Hearing on the status of the March 28, 2006 Order of Determination of Anonymous vs. Mayors (Protocol.

Speakers: Anonymous Complainant; Matthew Goudeau, Director, Mayors Office of Protocol

The complainant alleged that the Respondent Department failed to provide all requested docum that are in their possession.

The Respondent Department made an initial showing that they have complied with the Order of Determination and stated that they have provided all documents that are in their possession.

Chair Knee, in accordance with committee consensus, deferred action on this item until the May 2006 regular meeting.

The complainant was asked to provide specific documents proving his allegation that the Respo department failed to provide all requested documents that are in their possession.

3. Discussion of the Sunshine Ordinance 2005 Annual Report.

After brief discussion the Committee members, by consensus, agreed to continue review of the report and to submit any additions or changes at the next full Task Force meeting.

4. Discussion of possible amendments to Sections 67.10 to 67.12 of the Sunshine Ordinance.

- a. Sec. 67.10 Closed Sessions; Permitted Topics
- b. Sec. 67.11 Statement of Reasons for Closed Sessions
- c. Sec. 67.12 Disclosure of Closed Session Discussions and Actions
- d. Sec. 67.13 Barriers to Attendance Prohibited.
- e. Sec. 67.14 Tape Recording, Filing and Still Photography
- f. Sec. 67.15 Public Testimony
- g. Sec. 67.16 Minutes
- h. Sec. 67.17 Public Comment by Members of Policy Bodies

Sections 67.10 to Sections 67.13 were discussed and the Administrator recorded recommended amendments.

In accordance with Committee consensus, Chair Knee asked the Administrator to identify for discussion and possible action Sections 67.7 through 67.8-1, and 67.14 through 67.24 of the Sunshine Ordinance for the April 17, 2006, special meeting agenda, and to note that subsequent sections may be he time permits.

Member Knee, by consensus of the Committee, asked the administrator to invite a representative Media Services to the April 17 special meeting to discuss current technology available for recording meetings as pertaining to section 67.14 (b)

Speakers: Emeric Kalman

5. Public comment on items not listed on the agenda.

Speakers: Emeric Kalman

6. Administrator's report.

The Administrator made the report

Speakers: None

7. Announcements, questions, and future agenda items from Committee members.

Speakers: None

Adjournment The meeting was adjourned at 6:09 PM.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Special Meeting
Monday, April 17, 2006
4:00 p.m., City Hall, Room 406

DOCUMENTS DEPT

APR 11 2006

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order, Roll Call, Agenda Changes

1. Discussion of possible amendments to Sections 67.6 to 67.12 of the Sunshine Ordinance. (discussion and possible action item) (attachment)
 - (a.) Sec. 67.7 Agenda Requirements; Regular Meetings
 - (b.) Sec. 67.7-1 Public Notice Requirements
 - (c.) Sec. 67.8 Agenda Disclosures: Closed Sessions
 - (d.) Sec. 67.8-1 Additional Requirements for Closed Sessions
 - (e.) Sec. 67.14 Tape Recording, Filing and Still Photography
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 - (g.) Sec. 67.16 Minutes
 - (h.) Sec. 67.17 Public Comment by Members of Policy Bodies
 - (i.) Sec. 67.20 Definitions
 - (j.) Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals.
 - (k.) Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
 - (l.) Sec 67.22 Release of Oral Public Information
 - (m.) Sec 67.23 Public Review File – Policy Body Communications.
 - (n.) Sec 67.24 Public Information that Must Be Disclosed.

Subsequent section(s) may be heard if time permits.

2. Public comment on items not listed on the agenda. (no action) (no attachment)

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Next regularly scheduled meeting May 8, 2006.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | |
|---|----------------------|
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

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Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.


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Board of Supervisors

Sunshine Ordinance Task Force

April 17, 2006

Click on the item numbers below to obtain background materials. These files are provided in PDF format, and you must have the Adobe Acrobat Reader to access them. [Click here for info about obtaining Acrobat \(it's free\).](#)

SUNSHINE ORDINANCE TASK FORCE COMPLIANCE AND AMENDMENTS COMMITTEE

- Revised - AGENDA

Special Meeting
Monday, April 17, 2006

4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order, Roll Call, Agenda Changes

1.

Discussion of possible amendments to Sections 67.7 to 67.24 of the Sunshine Ordinance. (discussion and possible action item) (attachment)

- a. Sec. 67.7 Agenda Requirements; Regular Meetings
- b. Sec. 67.7-1 Public Notice Requirements
- c. Sec. 67.8 Agenda Disclosures: Closed Sessions
- d. Sec. 67.8-1 Additional Requirements for Closed Sessions
- e. Sec. 67.14 Tape Recording, Filing and Still Photography
- f. Sec. 67.15 Public Testimony
- g. Sec. 67.16 Minutes
- h. Sec. 67.17 Public Comment by Members of Policy Bodies
- i. Sec. 67.20 Definitions
- j. Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals.
- k. Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
- l. Sec 67.22 Release of Oral Public Information
- m. Sec 67.23 Public Review File – Policy Body Communications.

n. Sec 67.24 Public Information that Must Be Disclosed.

Subsequent section(s) may be heard if time permits.

2. Public comment on items not listed on the agenda. (no action)
(no attachment)

Adjournment Next regularly scheduled meeting May 8, 2006.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (*Section 67.16*)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (*Section 67.7-1 (c)*)

1. Complainant presents his/her facts and evidence 5 minutes

Other parties of Complainant presents facts & evidence Up to 3 minutes each

2. City responds 5 minutes

Other parties of City respond Up to 3 minutes each

Above total speaking time for Complainant and City to be the same

3. Complainant presents rebuttal 3 minutes

4. Public comment Up to 3 minutes each

(Excluding Complainant & City response, witnesses)

5. Matter is with the Task Force for discussion and deliberation

6. Vote by Task Force

Note: Time must be adhered to

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Board of Supervisors

Sunshine Ordinance Task Force

April 17, 2006

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE

MINUTES

Special Meeting

Monday, April 17, 2006

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:05 p.m.

Roll Call Present: Knee, Comstock, Craven

Agenda Changes None

Deputy City Attorney: Ernie Llorente

Committee Clerk: Linda Wong

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1. Discussion of possible amendments to Sections 67.7 to 67.24 of the Sunshine Ordinance.
 - a. Sec. 67.7 Agenda Requirements; Regular Meetings
 - b. Sec. 67.7-1 Public Notice Requirements
 - c. Sec. 67.8 Agenda Disclosures: Closed Sessions
 - d. Sec. 67.8-1 Additional Requirements for Closed Sessions
 - e. Sec. 67.14 Tape Recording, Filing and Still Photography
 - f. Sec. 67.15 Public Testimony
 - g. Sec. 67.16 Minutes
 - h. Sec. 67.17 Public Comment by Members of Policy Bodies
 - i. Sec. 67.20 Definitions
 - j. Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals.
 - k. Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
 - l. Sec 67.22 Release of Oral Public Information
 - m. Sec 67.23 Public Review File – Policy Body Communications.
 - n. Sec 67.24 Public Information that Must Be Disclosed.

Sections 67.7 through 67.15 were discussed and the Clerk recorded recommended amendment

Speaker: Eric Steinberg, Specialist, Media Services and Security, spoke on the differences between audio and video records retention and provided explanation on digital media.

Public Comment: None

Chair Knee, in accordance with Committee consensus, requested the administrator to invite a representative from the Mayor's Office of Disability to the May 8, 2006 meeting to discuss accommodations provided to persons using wheelchairs and other disabilities as pertaining to sections 67.7(f) and 67.13 of the Sunshine Ordinance.

Chair Knee, in accordance with Committee consensus, requested the administrator to invite a representative from the Office of the Clerk of the Board to the May 8, 2006 meeting to discuss the use of volunteer translators.

Chair Knee, in accordance with Committee consensus, requested the administrator to identify for discussion and possible action Sections 67.7(f), 67.13 and 67.16 through 67.24 of the Sunshine Ordinance for the May 8, 2006, meeting agenda, and to note that subsequent sections may be for time permits.

2. Public comment on items not listed on the agenda.

Speakers: None

Adjournment The meeting was adjourned at 6:30 PM.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Monday, May 8, 2006

4:00 p.m., City Hall, Room 406

MAY - 4 2006

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order
Roll Call
Agenda Changes

1. Approval of minutes of April 10, 2006 and Special Meeting April 17 2006. (action item) (attachments)
2. 06001 Continued hearing on the status of the March 28, 2006 Order of Determination of Anonymous vs. Mayors Office of Protocol. (discussion and possible action) (attachment)
3. Discussion of possible amendments to Sections 67.7(f), 67.13, 67.15 to 67.25 of the Sunshine Ordinance. (discussion and possible action item) (attachment)
 - (a.)Sec. 67.7(f) Agenda Requirements; Regular Meetings
 - (b.)Sec. 67.13 Barriers to Attendance Prohibited.
 - (c.)Sec. 67.15 Public Testimony
 - (d.)Sec. 67.16 Minutes
 - (e.)Sec. 67.17 Public Comment by Members of Policy Bodies
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 - (j.) Sec 67.23 Public Review File – Policy Body Communications.
 - (k.)Sec 67.24 Public Information that Must Be Disclosed.
 - (l.) Sec 67.25 Immediacy of Response

Subsequent section(s) may be heard if time permits.

4. Public comment on items not listed on the agenda. (no action) (no attachment)
5. Administrator's report. (attachment)
6. Announcements, questions, and future agenda items from Committee members. (discussion item) (5 min) (no attachment)

Adjournment

Next regularly scheduled meeting, Monday June 12, 2006.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

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- | | | |
|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

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Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
DRAFT MINUTES**

Monday, May 8, 2006
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:12 p.m.
Roll Call Present: Knee, Comstock, Craven
Agenda Changes None

Deputy City Attorney: Ernie Llorente
Administrator: Frank Darby

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1. Approval of minutes of April 10, 2006 and Special Meeting April 17 2006.

Speakers: Kimo Crossman

Motion to approve minutes of April 10, 2006. (Comstock / Craven)
Ayes: Knee, Comstock, Craven

Motion to approve minutes of Special Meeting April 17 2006. (Comstock / Craven)
Ayes: Knee, Comstock, Craven

2. 06001 Continued hearing on the status of the March 28, 2006 Order of Determination of Anonymous vs. Mayors Office of Protocol.

This item was removed from the agenda after receiving written notice from the Anonymous person that the documents submitted by the Mayors Office of Protocol were complete.

3. Discussion of possible amendments to Sections 67.7(f), 67.13, 67.15 to 67.25 of the Sunshine Ordinance.

(a.)Sec. 67.7(f) Agenda Requirements; Regular Meetings

(b.)Sec. 67.13 Barriers to Attendance Prohibited.

(c.)Sec. 67.15 Public Testimony

(d.)Sec. 67.16 Minutes

(e.)Sec. 67.17 Public Comment by Members of Policy Bodies

(f.) Sec. 67.20 Definitions

(g.)Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals.

- (h.) Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
- (i.) Sec 67.22 Release of Oral Public Information
- (j.) Sec 67.23 Public Review File – Policy Body Communications.
- (k.) Sec 67.24 Public Information that Must Be Disclosed.
- (l.) Sec 67.25 Immediacy of Response

Sections 67.7 (f), 67.13, 67.15, and 67.16 were discussed and the Administrator recorded recommended amendments.

In accordance with Committee consensus, Chair Knee asked the Administrator to identify for discussion and possible action Sections 67.7, and 67.13 through 67.25 of the Sunshine Ordinance for the June 12, 2006, meeting agenda, and to note that subsequent sections may be heard if time permits.

Speakers: Kenneth Stein, Program Coordinator, Mayors Office of Disability (invited); Kimo Crossman

4. Public comment on items not listed on the agenda.

Speakers: None

5. Administrator's report.

The Administrator made the report and noted that there may be future interruptions of our meeting start times due to prior AAB meetings in the room.

Chair Knee asked the Administrator to consider other meeting venues and to find out from the AAB how long they anticipate this disruption will last.

Speakers: None

6. Announcements, questions, and future agenda items from Committee members.

Member Craven asked the Administrator to include in future packets the detailed survey responses from Departments and to include responses received from the public.

Member Comstock asked that the language in the last sentence of the commentary for number two of the Sunshine Bill of Rights be amended state, "The agenda must be accessible to persons with disabilities.

Member Comstock, in response to the letter from Madeleine Licavoli, asked that section 67.13 (e) of the Sunshine Ordinance be reviewed next month for possible amendments and deletions.

Chair Knee reported that the California First Amendment Coalition has scheduled its annual Open Government Assembly for September 29 & 30, 2006, at Cal Berkeley, and said the committee planning the event seeks volunteers, and suggestions for speakers and topics.

Adjournment

The meeting was adjourned at 6:41 PM.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Monday, June 12, 2006
4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order
Roll Call
Agenda Changes

1. Approval of minutes of May 8, 2006. (action item) (attachments)
2. 06003 Hearing on the status of the May 23, 2006 Order of Determination of John Avalos, on behalf of Supervisor Chris Daly vs. Mayors Office of Communications. (discussion and possible action) (attachment)
3. Review of survey responses of individuals who have filed a Sunshine Ordinance Task Force complaint. (discussion and possible action) (attachment)
4. Possible amendments to Sections 67.7(f), 67.13, 67.15 to 67.25 of the Sunshine Ordinance, and subsequent sections as time permits. (discussion and possible action item) (attachment)
 - (a.) Sec. 67.7(f) Agenda Requirements; Regular Meetings
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5. Public comment on items not listed on the agenda. (no action) (no attachment)
6. Administrator's report. (attachment)
7. Announcements, questions, and future agenda items from Committee members. (discussion item) (5 min) (no attachment)

Adjournment

Next regularly scheduled meeting, Monday July 10, 2006.

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SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

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Board of Supervisors

Sunshine Ordinance Task Force

June 12, 2006

SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE

MINUTES

Monday, June 12, 2006

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:04 p.m.

Roll Call Present: Knee, Comstock (arrived at 4:09 p.m.), Craven

Agenda Changes None

Deputy City Attorney: Ernie Llorente

Clerk: Linda Wong

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1. Approval of minutes of May 8, 2006.

Speakers: Kimo Crossman spoke on descriptive meeting minutes.

Chair Knee asked the Clerk to record descriptive minutes for this meeting.

Motion to approve minutes of May 8, 2006. (Knee / Craven)

Ayes: Knee, Craven

Absent: Comstock

2. 06003 Hearing on the status of the May 23, 2006 Order of Determination of John Avalos, on behalf of Supervisor Chris Daly vs. Mayors Office of Communications.

Speakers: John Avalos, Legislative Assistant to Supervisor Chris Daly.

Chair Knee, in accordance with Committee consensus, will draft a letter to the Mayor's Office of Communications asking the office to release all documents that were requested, to provide an explanation if the office

refuses to release the documents, and that a representative be present at the next meeting.

Continued without objection.

3. Review of survey responses of individuals who have filed a Sunshine Ordinance Task Force complaint.

Speakers: Kimo Crossman, recommended that the Sunshine Ordinance Task Force Office be opened during normal business hours.

Member Comstock asked the Administrator to continue sending a copy of the survey to individuals who filed a complaint.

4. Possible amendments to Sections 67.7(f), 67.13, 67.15 to 67.25 of the Sunshine Ordinance, and subsequent sections as time permits.
 - a. Sec. 67.7(f) Agenda Requirements; Regular Meetings
 - b. Sec. 67.13 Barriers to Attendance Prohibited.
 - c. Sec. 67.14 Tape Recording, Filming and Still Photography
 - d. Sec. 67.15 Public Testimony
 - e. Sec. 67.16 Minutes
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 - k. Sec 67.23 Public Review File – Policy Body Communications.
 - l. Sec 67.24 Public Information that Must Be Disclosed.

(m.) Sec 67.25 Immediacy of Response

Sections 67.7(f), and 67.13 through 67.16 were discussed and the Clerk recorded recommended amendments.

Chair Knee, in accordance with Committee consensus, asked the Administrator to identify for discussion and possible action Sections 67.13, 67.15 through 67.25 of the Sunshine Ordinance for the July 10, 2006, meeting agenda, and to note that subsequent sections may be heard if time permits.

Speakers: Kimo Crossman, recommended that recordings be posted online and policy bodies adopt policy to provide members of the public access to their audio and/or video equipment during public testimony.

Allen Grossman, spoke on the time limits allowed for each speaker during public testimony and requested that minutes include resolutions adopted at meetings.

5. Public comment on items not listed on the agenda.

Speakers: Kimo Crossman, recommended to the Committee that they instruct the Administrator to seek outside legal council if he receives public records request(s).

Allen Grossman stated that meeting minutes should reflect the text of the resolution(s).

6. Administrator's report.

Speakers: None

7. Announcements, questions, and future agenda items from Committee members.

Speakers: None.

Adjournment The meeting was adjourned at 6:41 PM.

This meeting has been audio recorded and is on file in the office of the
Sunshine Ordinance Task Force



Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

JUL - 7 2006

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Monday, July 10, 2006
4:00 p.m., City Hall, Room 406

07-07-0701000 2006

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order
Roll Call
Agenda Changes

1. Approval of minutes of June 12, 2006. (action item) (attachments)
2. 06003 Continued hearing on the status of the May 23, 2006 Order of Determination of John Avalos, on behalf of Supervisor Chris Daly vs. Mayors Office of Communications. (discussion and possible action) (attachment)
3. 06004 Hearing on the status of the June 27, 2006 Order of Determination of Robert Planthold vs. Municipal Transportation Agency. (discussion and possible action) (attachment)
4. Possible amendments to Sections 67.13, 67.15 to 67.25 of the Sunshine Ordinance, and subsequent sections as time permits. (discussion and possible action item) (attachment)
 - (a.) Sec. 67.13 Barriers to Attendance Prohibited.
 - (b.) Sec. 67.15 Public Testimony
 - (c.) Sec. 67.16 Minutes
 - (d.) Sec. 67.17 Public Comment by Members of Policy Bodies
 - (e.) Sec. 67.20 Definitions
 - (f.) Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals
 - (g.) Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
 - (h.) Sec 67.22 Release of Oral Public Information
 - (i.) Sec 67.23 Public Review File – Policy Body Communications.
 - (j.) Sec 67.24 Public Information that Must Be Disclosed.
 - (k.) Sec 67.25 Immediacy of Response
5. Public comment on items not listed on the agenda. (no action) (no attachment)

6. Administrator's report. (attachment)
7. Announcements, questions, and future agenda items from Committee members.
(discussion item) (5 min) (no attachment)

Adjournment

Next regularly scheduled meeting, Monday August 14, 2006.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

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|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

^ a speaker is interrupted by questions, the interruption does not count against his/her time.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

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Board of Supervisors

Sunshine Ordinance Task Force

July 10, 2006

SUNSHINE ORDINANCE TASK FORCE COMPLIANCE AND AMENDMENTS COMMITTEE

MINUTES

Monday, July 10, 2006

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:00 p.m.

Roll Call Present: Knee, Comstock, Craven

Agenda Changes None

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

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1. Approval of minutes of June 12, 2006.
 Speakers: None
 Motion to approve minutes of June 12, 2006. (Comstock / Craven)
 Ayes: Knee, Comstock, Craven
2. 06003 Continued hearing on the status of the May 23, 2006 Order of Determination of John Avalos, on behalf of Supervisor Chris Daly vs. Mayors Office of Communications.
 Speakers: John Avalos, Legislative Assistant to Supervisor Chris Daly; David Miree, Mayors Office of Communications reported that, due to an emergency, Jennifer Petrucione is unable to attend and is requesting a continuance.
 Members of the public: Kimo Crossman – the Mayor's office should set an example; Robert Planthold – the motion should include inviting someone from the Mayor's Office to address the Task Force.
 Motion to refer to the Full Task Force with a recommendation that a letter be written to the Ethics Commission, California Attorney General's

Office, San Francisco District Attorney, or Board of Supervisors, as the Task Force deems appropriate. (Knee/Comstock) Ayes: Knee, Comstock, Craven

3. 06004 Hearing on the status of the June 27, 2006 Order of Determination of Robert Planthold vs. Municipal Transportation Agency.

Speakers: Robert Planthold, complainant; Diana Hammons, Municipal Transportation Agency.

Diana Hammons to provide a written analyses to the Task Force by Wednesday, July 12, 2006, which explains why the document is being withheld.

Continued without objection.

4. Possible amendments to Sections 67.13, 67.15 to 67.25 of the Sunshine Ordinance, and subsequent sections as time permits.

- a. Sec. 67.13 Barriers to Attendance Prohibited.
- b. Sec. 67.15 Public Testimony
- c. Sec. 67.16 Minutes
- d. Sec. 67.17 Public Comment by Members of Policy Bodies
- e. Sec. 67.20 Definitions
- f. Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals.
- g. Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
- h. Sec 67.22 Release of Oral Public Information
- i. Sec 67.23 Public Review File – Policy Body Communications.
- j. Sec 67.24 Public Information that Must Be Disclosed.

(m.) Sec 67.25 Immediacy of Response

Sections 67.13, and 67.15 were discussed and the Clerk recorded recommended amendments.

Chair Knee, in accordance with Committee consensus, asked the Administrator to identify for discussion and possible action Sections 67.15 and 67.17 through 67.25 of the Sunshine Ordinance for the August 14, 2006, meeting agenda, and to note that subsequent sections may be heard if time permits. The Administrator was also asked to provide five extra copies of the sections being reviewed to future meetings for the public's use.

Speakers: Kimo Crossman said that 67.13 should be amended to require broadcasting of meetings for individuals who cannot attend the meeting; that 67.15 allow the public to combine their time; Allen Grossman re: proper editing, and drafting of proposed language in 67.15

5. Public comment on items not listed on the agenda.

Speakers: Kimo Crossman said that it's the Chairs discretion to reopen public comment; concerned about lack of communication being used for not providing documents, the letter to the Mayors Office of Communication from the Task Force doesn't appear to have been sent,

and the Task Force overly concerned about the cost for technology that improves open government. Allen Grossman suggest that a screen be provided so the public can see the changes being discussed and that video recording would be helpful to those who can't hear.

6. Administrator's report.

The Administrator made the report.

Speakers: Kimo Crossman said that he has filed two complaints, as recommended by the Task Force, which will be heard a the Complaint Committee.

7. Announcements, questions, and future agenda items from Committee members.

Member Comstock indicated that an announcement may need to be made to let the public know that amendments to the Ordinance will not be available for the November election.

Speakers: None.

Adjournment The meeting was adjourned at 6:03 PM.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force



Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

AUG 10 2006

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Monday, August 14, 2006
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order;
Roll Call;
Agenda Changes

1. Approval of minutes of July 10, 2006. (action item) (attachments)
2. 06003 Hearing on the status of the May 23, 2006 Order of Determination of John Avalos, on behalf of Supervisor Chris Daly vs. Mayors Office of Communications, and to determine rather a referral to the Ethics Commission is necessary. (discussion and possible action) (attachment)
3. 06004 Continued hearing on the status of the June 27, 2006 Order of Determination of Robert Planthold vs. Municipal Transportation Agency. (discussion and possible action) (attachment)
4. 06005 Hearing on the status of the July 25, 2006 Order of Determination of Kimo Crossman vs. Mayor's Disaster Council. (discussion and possible action) (attachment)
5. 06006 Hearing on the status of the July 25, 2006 Order of Determination of Kimo Crossman vs. Department of Telecommunications and Information Services (discussion and possible action) (attachment)

6. Possible amendments to Sections 67.15, 67.17 to 67.25 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
 - (a.) Sec. 67.15 Public Testimony
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 - (h.) Sec 67.24 Public Information that Must Be Disclosed.
 - (i.) Sec 67.25 Immediacy of Response
7. Public comment on items not listed on the agenda. (no action) (no attachment)
8. Administrator's report. (attachment)
9. Announcements, questions, and future agenda items from Committee members. (discussion item) (5 min) (no attachment)

Adjournment

Next regularly scheduled meeting, Monday September 11, 2006.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

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Board of Supervisors

Sunshine Ordinance Task Force

August 14, 2006

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE

MINUTES

Monday, August 14, 2006

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:06 p.m.

Roll Call Present: Knee, Comstock, Craven (arrived at 4:11 p.m.)

Agenda Changes None

Deputy City Attorney: Ernest Llorente, Jr.

Clerk: Linda Wong

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1. Approval of minutes of July 10, 2006.

Speakers: None

Member Comstock asked the Clerk to list amendments that were discussed in the minutes.

Motion to approve minutes of July 10, 2006. (Comstock / Knee)

Ayes: Knee, Comstock

Absent: Craven

2. 06003 Hearing on the status of the May 23, 2006 Order of Determination of John Avalos, on behalf of Supervisor Chris Daly vs. Mayors Office of Communications, and to determine rather a referral to the Ethics Commission is necessary.

Speakers: Kimo Crossman spoke on the status of the request.

Chair Knee, in accordance with Committee consensus requested the Clerk to contact John Avalos to find out if his request has been satisfied. If not, the matter shall be reintroduced on the agenda at the next meeting.

Member Craven, in accordance with Committee consensus requested that the response be included as part of the Administrator's report at the next meeting if the matter has been resolved.

Continue at the call of the Chair.

3. 06004 Continued hearing on the status of the June 27, 2006 Order of Determination of Robert Planthold vs. Municipal Transportation Agency. (discussion and possible action) (attachment)

Speakers: None

Both parties agreed to continue the item to the next meeting.

No action taken.

4. 06005 Hearing on the status of the July 25, 2006 Order of Determination of Kimo Crossman vs. Mayor's Disaster Council.

Speaker: Kimo Crossman, Complainant

No action taken.

5. 06006 Hearing on the status of the July 25, 2006 Order of Determination of Kimo Crossman vs. Department of Telecommunications and Information Services

Speakers: Kimo Crossman, complainant; Ron Vinson, Chief Administrative Office, Department of Telecommunications and Information Services

No action taken.

6. Possible amendments to Sections 67.15, 67.17 to 67.25 of the Sunshine Ordinance and subsequent sections as time permits.

- a. Sec. 67.15 Public Testimony
- b. Sec. 67.17 Public Comment by Members of Policy Bodies
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(i.) Sec 67.25 Immediacy of Response

Sections 67.15, 67.17, 67.20 and 67.21 were discussed and the Clerk recorded recommended amendments.

Chair Knee, in accordance with Committee consensus, asked the Administrator to identify for discussion and possible action Sections 67.16 and 67.21 through 67.25 of the Sunshine Ordinance for the September 11, 2006, meeting agenda, and to note that subsequent sections may be heard if time permits. The Administrator was also asked to provide five extra copies of the sections being reviewed to future meetings for the public's use.

Speakers: Kimo Crossman said that the written suggestions from Member Craven are very helpful, that a projector be used during meetings and recommended that the Committee Members consider his written comments regarding the ordinance. Allen Grossman requested the Clerk to provide to him the ordinance in Word format.

7. Public comment on items not listed on the agenda.

Speakers: Kimo Crossman encouraged the Committee to find a method to allow the public to follow changes being made to the Sunshine Ordinance. Allen Grossman agreed with Kimo Crossman.

8. Administrator's report.

The Administrator submitted the report.

Speakers: None

9. Announcements, questions, and future agenda items from Committee members.

Speakers: None.

Member Craven stated that she is unavailable to attend the meeting in November unless the Committee changes the meeting date.

Member Knee indicated that October 9, 2006 is a legal holiday and that the next meeting is scheduled for Wednesday, October 11 at 4:30 p.m. in room 406.

Member Knee announced that there will be a fund raising benefit party on Saturday, August 19, 2006 for Josh Wolf, who is in jail for refusing to give unedited video footages to the federal grand jury, at the Dance Mission Theater, 3316 Mission Street beginning at 7:00 p.m.

Adjournment The meeting was adjourned at 7:03 PM.

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Monday, September 11, 2006
4:00 p.m., City Hall, Room 406

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10-07-06A11:03 RCMD

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order;
Roll Call;
Agenda Changes

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4. 06007 Hearing on the status of the August 22, 2006 Order of Determination of Javier Gonzalez vs. City Attorney's Office. (discussion and possible action) (attachment)
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6. Public comment on items not listed on the agenda. (no action) (no attachment)
7. Administrator's report. (attachment)
8. Announcements, questions, and future agenda items from Committee members.
(discussion item) (5 min) (no attachment)

Adjournment

Next regularly scheduled meeting, Wednesday October 11, 2006.

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SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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| 2. | City responds | 5 minutes |
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Above total speaking time for Complainant and City to be the same

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| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

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Board of Supervisors

Sunshine Ordinance Task Force

September 11, 2006

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE

MINUTES

Monday, September 11, 2006

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:05 p.m.

Roll Call Present: Knee, Comstock (arrived at 4:18 p.m.), Craven

Agenda Changes Item 4 was heard after item #2

Deputy City Attorney: Ernest Llorente, Jr.

Administrator: Frank Darby, Jr.

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DEC 21 2006

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1. Approval of minutes of August 14, 2006.

Speakers: Kimo Crossman said that the minutes are not complete that items 4 & 5 does not include his request that Departments submit a response to the Order of Determination in 5 days. Item 6 omits many of his comments including instructions to Linda Wong. His suggestion to create a Supervisor of Public Forum is omitted.

Allen Grossman said that he discussed the advantage of having the MS Word format of the amendments.

Chair Knee, in accordance with Committee consensus, asked the Administrator to ask Linda Wong whether she has additional information to add to the minutes.

By consensus the Committee suspended action on the minutes until next month.

2. 06003 Continued hearing on the status of the May 23, 2006 Order of Determination of John Avalos, on behalf of Supervisor Chris Daly vs. Mayors Office of Communications (MOC), and to determine rather a

referral to the Ethics Commission is necessary.

Speakers: None

Chair Comstock, by Committee consensus, noted that based on the letter from John Avalos who reported that he have received the information from the MOC, as per the Order of Determination, that no further action was needed on this item.

3. 06004 Continued hearing on the status of the June 27, 2006 Order of Determination of Robert Planthold vs. Municipal Transportation Agency (MTA).

Speakers: Robert Planthold, Complainant; Diana Hammons, Director External Affairs, Municipal Transportation Agency.

Kimo Crossman stated that is was inappropriate for Mr. Zarefsky to speak while seated on the Committee side of the podium, and asked the Task Force to instruct him to speak from the public podium like the complainant.

Allen Grossman said that there has to be some facts in the document that can be disclosed. That the MTA must go through the document and redact everything that is not discloseable, and identify who is doing the redaction.

Motion finding that the their hasn't been adequate compliance with the June 27, 2006 Order of Determination with respect to the request that the MTA release the draft documents requested by Mr. Planthold after the exempt recommendations of the author have been redacted. The Committee request that the MTA respond to this finding within 5 days and also request that it be rescheduled for a hearing to the Task Force if compliance hasn't been full and forthcoming. (Craven / Knee)

Ayes: Knee, Comstock, Craven

4. 06007 Hearing on the status of the August 22, 2006 Order of Determination of Javier Gonzalez vs. City Attorney's Office.

Speaker: Javier Gonzalez, Complainant; Paul Zarefsky, Deputy City Attorney, City Attorney's Office.

Kimo Crossman stated that is was inappropriate for Mr. Zarefsky to speak while seated on the Committee side of the podium, and asked the Task Force to instruct him to speak from the public podium like the complainant.

Allen Grossman said that the Sheriff's incident report should be disclosed.

Lurilla Harris said that she is concerned about what is happening with the case.

No action taken by unanimous consensus.

5. Possible amendments to Sections 67.16, 67.21 to 67.25 of the Sunshine Ordinance and subsequent sections as time permits.

- a. Sec. 67.16 Minutes
- b. Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals.
- c. Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
- d. Sec 67.22 Release of Oral Public Information
- e. Sec 67.23 Public Review File – Policy Body Communications.
- f. Sec 67.24 Public Information that Must Be Disclosed.

(g.) Sec 67.25 Immediacy of Response

Speakers: Kimo Crossman asked the Committee Members to consider his written comments regarding the ordinance; that 67.16 should require that the 150 word summary be included in the minutes and not as an attachment to the minutes. That 67.21 make provisions for alternate Custodian of Records, prevent the prioritizing of requests, encourage transparency of requests, allow requestors to be carbon copied on correspondence. Allen Grossman suggested creating a cross-reference to the 150 word summary in the public comment section of the minutes. He also said that Section 67.21 (e) should require that the Supervisor of Records disclose to the person requesting a determination rather the City Attorney's Office have already advised a department on the matter being determined.

Sections 67.16 and 67.21 were discussed and the Clerk recorded recommended amendments.

Chair Knee, in accordance with Committee consensus, asked the Administrator to identify for discussion and possible action Sections 67.15, 67.16, possible new Section 67.18 titled "Supervisor of Public Forum," and 67.21 through 67.25 of the Sunshine Ordinance for the October 11, 2006, meeting agenda, and to note that subsequent sections may be heard if time permits.

Chair Knee, in accordance with Committee consensus, asked the Administrator to invite a representative from the Department of Telecommunications and Information Services or someone they recommend to attend the October 11, 2006 meeting to discuss the subject of metadata.

6. Public comment on items not listed on the agenda.

Speakers: Kimo Crossman said that he is surprised that Media Services can't assist with attaching member Comstocks Apple PC to the projector; that there are different types of PDF documents (image only and searchable) and that the draft ordinance posted on the internet is image only.

Allen Grossman said that he has filed a complaint against the Clerk of the Board for being denied the amendments to the ordinance in Word format.

7. Administrator's report.

The Administrator submitted the report.

Speakers: Kimo Crossman asked that the Good Government Guide for

2006 be placed in the orange binder. He alleged that the guide has written suggestions from the City Attorney's office to departments to not submit request for opinions to their office in writing. He suggested that the public communications be posted on the web site.

8. Announcements, questions, and future agenda items from Committee members.

Speakers: Kimo Crossman read a section from the 2005 Good Government Guide that he alleges the City Attorney's Office discourage departments from submitting request to them in writing so that they won't have to disclose it.

Member Comstock stated that he is unsettled about the provisions for public seeking in section 67.15. That the Committee haven't exhausted the issue about having a representative public speaker, and because it has profound implications for the Board of Supervisors and all commissions. He will as an individual contact his district Supervisor, Ross Mirkarimi, and ask him to agendize it for discussion at the Rules Committee to allow more public discussion on the matter.

Chair Knee asked the Administrator to add for discussion Section 67.15 to next months agenda.

Chair Knee announced that the California First Amendment Coalition's Open Government will be September 29-30 at the UC Berkeley Graduate School of Journalism. Arianna Huffington is Fridays keynote speaker and on Saturday there will be a debate on prosecuting reporters for receiving leaked information

Chair Knee asked everyone to rise in a moment of silence in honor of the 9-11 attacks on the United States. He asked that during their silence everyone think about what they could do to remove the reasons that people might have to attack the country.

The meeting was adjourned after a moment of silence.

Adjournment The meeting was adjourned at 7:00 PM.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force (Audio for items 1, 2, and 4 were inadvertently omitted from the tape.)

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

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OCT - 5 2006

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

SAN FRANCISCO
PUBLIC LIBRARY

Wednesday, October 11, 2006
4:00 p.m., City Hall, Room 406

10-05-06A00:04 REV

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of August 14, 2006, and September 11, 2006. (action item) (attachments)
2. 06011 Hearing on the status of the September 26, 2006 Order of Determination of Beth Rimbey vs. Office of Emergency Services and the Mayors Office of Communications (discussion and possible action) (attachment)
3. 06015 Hearing on the status of the September 26, 2006 Order of Determination of Allen Grossman against the Office of the Clerk of the Board and Sunshine Ordinance Task Force Administrator (discussion and possible action) (attachment)
4. Discussion: Overview of metadata in electronic records; Presentation by the Department of Telecommunications and Information Services. (no action item) (no attachment)
5. Possible amendments to Sections 67.15, 67.16, 67.18, and 67.21 to 67.25 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
 - (a.) Sec. 67.15 Public Testimony
 - (b.) Sec. 67.16 Minutes
 - (c.) Sec. 67.18 Supervisor of Public Forum (possible new section)
 - (d.) Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals
 - (e.) Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
 - (f.) Sec 67.22 Release of Oral Public Information
 - (g.) Sec 67.23 Public Review File – Policy Body Communications.
 - (h.) Sec 67.24 Public Information that Must Be Disclosed.
 - (i.) Sec 67.25 Immediacy of Response

6. Public comment on items not listed on the agenda. (no action) (no attachment)
7. Administrator's report. (attachment)
8. Announcements, questions, and future agenda items from Committee members.
(discussion item) (5 min) (no attachment)

Adjournment

Next regularly scheduled meeting, Monday November 13, 2006.

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

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|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sof@sfgov.org.

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Board of Supervisors

Sunshine Ordinance Task Force

October 11, 2006

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE

MINUTES

Wednesday, October 11, 2006

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:04 p.m.

Roll Call Present: Knee, Comstock, Craven

Agenda Change Item #6 taken after item #3

Deputy City Attorney: Ernest Llorente, Jr.

Clerk: Linda Wong

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1. Approval of minutes of August 14, 2006, and September 11, 2006.

Speakers: None

Motion to approve minutes of August 14, 2006. (Craven/Comstock)

Ayes: Knee, Comstock, Craven

Motion to approve minutes of September 11, 2006. (Craven/Knee)

Ayes: Knee, Comstock, Craven

2. 06011 Hearing on the status of the September 26, 2006 Order of Determination of Beth Rimbey vs. Office of Emergency Services and the Mayors Office of Communications

Speakers: Beth Rimbey, Complainant; Laura Phillips, Executive Director, Office of Emergency Services.

Member Craven, in accordance with Committee consensus, requested that the item be continued to the next meeting.

3. 06015 Hearing on the status of the September 26, 2006 Order of Determination of Allen Grossman against the Office of the Clerk of the Board and Sunshine Ordinance Task Force Administrator

Speakers: Allen Grossman, Complainant and Gloria Young, Clerk of the Board

Kimo Crossman, stated that he requested the document to be provided to him in Word format and that viewing the document on the monitor is insufficient. That per the Sunshine Ordinance, records should be provided without unnecessary delay and this is unnecessary delay.

Motion to recommend to the full Task Force with a recommend from the Committee that this matter be referred to the State Attorney General, if the record has not been provided within 5 business days in Word format. (Craven/Comstock)

Ayes: Knee, Comstock, Craven

4. Discussion: Overview of metadata in electronic records; Presentation by the Department of Telecommunications and Information Services.

Marco Bruno, Department of Telecommunications and Information Services (DTIS) responded to questions from Committee members regarding the services that they provide to the Office of the Clerk of the Board.

Chair Knee, in accordance with Committee consensus requested Mr. Bruno to provide a diagram of servers maintained by DTIS.

Speakers: Kimo Crossman, stated that the questions asked are related to his two outstanding complaints against DTIS for failure to retrieve the document that the Clerk's Office refuses to provide and urged DTIS to provide the document to him. That the Committee should ask DTIS who has control and backups the servers?

Allen Grossman, asked Mr. Bruno if the Sunshine Ordinance Amendment in Word format is saved in the Board of Supervisors' server and who has access to the network.

5. Possible amendments to Sections 67.15, 67.16, 67.18, and 67.21 to 67.25 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)

- a. Sec. 67.15 Public Testimony
- b. Sec. 67.16 Minutes
- c. Sec. 67.18 Supervisor of Public Forum (possible new section)
- d. Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals
- e. Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
- f. Sec 67.22 Release of Oral Public Information
- g. Sec 67.23 Public Review File – Policy Body Communications.
- h. Sec 67.24 Public Information that Must Be Disclosed.
- i. Sec 67.25 Immediacy of Response

Speakers: Kimo Crossman made the following suggestions: re Section

67.15 – Allow people to submit written comments for the minutes and the record when they cannot attend in person. Allow a limited Point of Order as long as it is not disruptive. Section 67.16 – change the last sentence in the first paragraph to read "Any person speaking during a public comment period may supply a brief written summary of their comments which shall, if no more than 150 words, be included in the minutes integrally, not as a separate document, attachment, or appendix. Section 67.18 – Have an on-call phone number if there is a dispute about a meeting going into closed session or a meeting has not been properly noticed.

Sections 67.15, 67.16 and 67.18 were discussed and the Clerk recorded recommended amendments.

Chair Knee, in accordance with Committee consensus, asked the Administrator to identify for discussion and possible action Sections 67.20 through 67.29-7 of the Sunshine Ordinance for the November 2006, meeting agenda, and to note that subsequent sections may be heard if time permits.

6. Public comment on items not listed on the agenda.

Speakers: Allen Grossman, said he learned that the Administrator is no longer a full time staff to the Task Force and that violates the Sunshine Ordinance. That the Administrator should take directions from the Task Force, not the Clerk of the Board; therefore, he would like the matter regarding his request for the Sunshine Ordinance in Word format revisited.

Francisco DeCosta, stated that the City Attorney's Office determined the referendum regarding the Bayview project was not insufficient even though the Office of the Clerk of the Board believes proper procedures were followed.

Kimo Crossman, urged the Committee to reopen public comment to allow the public to speak on the Order of Determination of Allen Grossman against the Office of the Clerk of the Board and Sunshine Ordinance Task Force Administrator. That per the Sunshine Ordinance, the Clerk of the Board shall provide a full time staff to the Task Force. Since the current Administrator is serving as the Records Manager and SOTF Administrator, the Clerk's Office is in violation of the Sunshine Ordinance. Informed the Committee that DTIS failed to attend the Complaint Committee scheduled for October 10, 2006 to speak on his complaint against the department.

7. Administrator's report.

The Administrator submitted the report.

Speakers: Kimo Crossman, reiterated that the Clerk of the Board violated the Sunshine Ordinance by assigning the Administer to do two jobs and urged the Task Force to address that.

Allen Crossman, agreed with Kimo Crossman's statement.

8. Announcements, questions, and future agenda items from Committee members.

There is none.

Speakers: None

Adjournment The meeting was adjourned at 6:48 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



City Hall
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<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Wednesday, November 15, 2006
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of October 11, 2006. (action item) (attachments)
2. 06011 Continued hearing on the status of the September 26, 2006 Order of Determination of Beth Rimbey vs. Office of Emergency Services and the Mayors Office of Communications (discussion and possible action) (attachment)
3. Directive from the Rules Committee of the Board of Supervisors that the Task Force address the issues regarding voluminous requests and vexatious requestors and to report back to the Rules Committee. (discussion and possible action item) (no attachment)
4. Possible amendments to Sections 67.20 to 67.29-7 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
 - (a.) Sec. 67.20 Definitions
 - (b.) Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals
 - (c.) Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
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 - (h.) Sec 67.26 Withholding Kept to a Minimum
 - (i.) Sec 67.27 Justification of Withholding
 - (j.) Sec 67.28 Fees for Duplication
 - (k.) Sec 67.29 Index to Records
 - (l.) Sec 67.29-1 Records Survive Transition of Officials.
 - (m.) Sec 67.29-2 Internet Access/World Wide Web Minimum Standards

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- (n.) Sec 67.29-3
- (o.) Sec 67.29-4 Lobbyist On Behalf of the City
- (p.) Sec 67.29-5 Calendars of Certain Officials
- (q.) Sec 67.29-6 Sources of Outside Funding
- (r.) Sec 67.29-7 Correspondence and Records Shall Be Maintained

- 5. Public comment on items not listed on the agenda. (no action) (no attachment)
- 6. Administrator's report. (attachment)
- 7. Announcements, questions, and future agenda items from Committee members.
(discussion item) (5 min) (no attachment)

Adjournment

Next regularly scheduled meeting, Monday, December 11, 2006.

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. *(Section 67.16)*

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- | | | |
|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to
If a speaker is interrupted by questions, the interruption does not count against his/her time.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

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Board of Supervisors

Sunshine Ordinance Task Force

November 15, 2006

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE

MINUTES

Wednesday, November 15, 2006

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:05 p.m.

Roll Call Present: Knee, Comstock, Craven

Agenda Change Item #5 was heard after item #4a

Deputy City Attorney: Ernest Llorente, Jr.

Administrator: Frank Darby, Jr.

1. Approval of minutes of October 11, 2006.

Speakers: None

Motion to approve minutes of October 11, 2006. (Comstock / Craven)

Ayes: Knee, Comstock, Craven

2. 06011 Continued hearing on the status of the September 26, 2006 Order of Determination of Beth Rimbey vs. Office of Emergency Services and the Mayors Office of Communications

Speakers: None

Continued by agreement of both parties prior to the meeting.

3. Directive from the Rules Committee of the Board of Supervisors that the Task Force address the issues regarding voluminous requests and vexatious requestors and to report back to the Rules Committee.

Speakers: Kimo Crossman spoke on the importance of not hindering

public records request and handed out articles from the Hawaii Reporter re: Vexatious Requestor Bill, and Freedom of Information and Open Government Blog. He also submitted a list of 19 contributions that he alleges he has made to the Task Force.

Allen Grossman alleged that this issue is aimed at Mr. Crossman by the City Attorney; that the Task Force needs to look at what's behind this directive; that no changes be made to the ordinance that hinders public access to records.

Martin MacIntyre said that this issue only serves to keep them from getting public information; that they must submit new request be the Departments are unresponsive.

Francisco DeCosta said that when information is requested departments should provide it. He alleges that departments don't want to provide members of the public with the relevant data because they have something to hide; that the City has chosen to ignore requestors; that when they ask for documents they are for the good of the constituents/majority.

Member Craven suggested that the broader policy question on this matter should be before the full Task Force and to have it on the agenda so that departments who raised the issue and those who have been characterized as abusing the process can attend and make recommendations.

Member Comstock stated that value that active watch dogs provide is being lost; that they have saved millions; that it should be an open process so that everyone knows what's going on. He asked DCA Llorente how would changing the Sunshine law affect State law, specifically CPRA?

Deputy City Attorney Llorente stated that State law can't be pre-empted. However, it does provide that certain areas can be made more open, but not more restrictive. He suggested that this matter be agendized by the full Task Force in a special meeting so that they can have the time to go over the issues; that all interested parties be invited and allowed to speak, to help the Task Force understand the scope of the problem and identify a solution.

Chair Knee said that this matter could be addressed in Sections 67.25, 26, and 27 of the Ordinance. In accordance with Committee consensus, he will write a letter to the Board of Supervisors Rules Committee saying that the Compliance and Amendments Committee (CAC) Have been aware of this alleged problem for a long time; that the matter will be referred to the full Task Force because the CAC feels that it was more appropriate that the hearing be held with the Full Task Force since there are no pending amendments in this regard, and that they will notify all interested parties who will be encouraged to present their views when this matter is scheduled for a hearing.

4. Possible amendments to Sections 67.20 to 67.29-7 of the Sunshine Ordinance and subsequent sections as time permits.
 - a. Sec. 67.20 Definitions
 - b. Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals

- c. Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
- d. Sec 67.22 Release of Oral Public Information
- e. Sec 67.23 Public Review File – Policy Body Communications.
- f. Sec 67.24 Public Information that Must Be Disclosed.
- g. Sec 67.25 Immediacy of Response
- h. Sec 67.26 Withholding Kept to a Minimum
- i. Sec 67.27 Justification of Withholding
- j. Sec 67.28 Fees for Duplication
- k. Sec 67.29 Index to Records
- l. Sec 67.29-1 Records Survive Transition of Officials.
- m. Sec 67.29-2 Internet Access/World Wide Web Minimum Standards
- n. Sec 67.29-3
- o. Sec 67.29-4 Lobbyist On Behalf of the City
- p. Sec 67.29-5 Calendars of Certain Officials
- q. Sec 67.29-6 Sources of Outside Funding
- r. Sec 67.29-7 Correspondence and Records Shall Be Maintained

Speakers: Kimo Crossman provided a handout of suggested changes: He said that the definition for Supervisor of Public Forum be added; that there be no "designated" custodian of records; that a requestor be allowed to provide a factory sealed media for e-records requested; that departments who don't provide records identify to requestors how thorough there search were.

Allen Grossman provided a handout of suggested changes: He said that terms need to be simplified including the definition of a Public Record; that the custodian be someone who is in the department; that the Task Force Administrator be the central depositor of the names of departmental custodians; that the ordinance makes clear how public records and public information are dealt with; that if oral request are not honored at the time that a explanation be give; that there is ambiguity as to whether a record is public or not; that department heads be notified when an Order of Determination is rendered against them, and that they be penalized if they don't comply.

Martin MacIntyre said that there needs to be some way to confirm claims by departments that they don't have the records requested; that departments who don't provide documents should be held accountable.

Sections 67.20 and 67.21 were discussed and the Administrator recorded recommended amendments.

Chair Knee, in accordance with Committee consensus, asked the Administrator to identify for discussion and possible action Sections 67.21 through 67.29-7 of the Sunshine Ordinance for the December 2006, meeting agenda, and to note that subsequent sections may be heard if time permits.

5. Public comment on items not listed on the agenda.

Speakers: Allen Grossman said that under Proposition 59 any changes to the Ordinance requires a finding; that the public should have the same access to information as the departments.

Martin MacIntyre alleged that departments are using tactics and

techniques to prevent the public from getting records by having every records request reviewed by the City Attorney; that to avoid being labeled as a vexatious or voluminous requester a person can file a anonymous request.

Kimo Crossman urged the Task Force to find a way to publicly stand behind community watch dogs and let the public, media, and politicians know what good work that they do; that regarding the articles about him in the Bay Guardian and the SF Weekly that he would like to see public acknowledgement of work that he does; that he's getting "sick and tired" of having to battle the City Attorney and departments, and he needs people to stand behind him; that Bruce Burgmann doesn't understand the metadata issue because he's not real technical and is confused about what's going on; that he's feeling a little discouraged and needs public acknowledgment to straighten misconceptions.

Member Comstock said that he is concerned about changed attitudes that requires every public request to be reviewed by the City Attorney; that he is also concerned about the press seeming to abandon Sunshine and personally plans to write them a letter.

6. Administrator's report.

The Administrator submitted the report.

Speakers: Kimo Crossman said that the Administrator should provide a display of amendments using his laptop during the meeting; that the COB should not restrict the Administrators work; that the Administrator is not full time; that it is unacceptable that there have been blank tapes made of Task Force meetings; that Minutes and Agendas should be posted in original word format rather than PDF.

7. Announcements, questions, and future agenda items from Committee members.

Member Comstock said that the Boards of Supervisors Rules Committee directed the Task Force to identify the cost to departments for comply with the Sunshine Ordinance; that he will request that the Board of Supervisors provide assistance from the Budget Analyst or some other resource to identify the cost.

Member Craven said that the Board should appoint someone since the Task Force does not have the knowledge center or the ability to make that determination.

Chair Knee said that it is not a fair request and that he will put some language about this in his letter.

Speakers: Kimo Crossman said that during item #3 he provided a document that address the financial consequences of freedom of information.

Adjournment The meeting was adjourned at 7:02 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



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SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA

SAN FRANCISCO
PUBLIC LIBRARY

Monday, December 11, 2006
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of November 15, 2006. (action item) (attachments)
2. 06011 Continued hearing on the status of the September 26, 2006 Order of Determination of Beth Rimbey vs. Office of Emergency Services and the Mayors Office of Communications (discussion and possible action) (attachment)
3. Possible amendments to Sections 67.20 to 67.29-7 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
 - (a.) Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals
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 - (l.) Sec 67.29-2 Internet Access/World Wide Web Minimum Standards
 - (m.) Sec 67.29-3
 - (n.) Sec 67.29-4 Lobbyist On Behalf of the City
 - (o.) Sec 67.29-5 Calendars of Certain Officials
 - (p.) Sec 67.29-6 Sources of Outside Funding
 - (q.) Sec 67.29-7 Correspondence and Records Shall Be Maintained

4. Public comment on items not listed on the agenda. (no action) (no attachment)
5. Administrator's report. (attachment)
6. Announcements, questions, and future agenda items from Committee members. (discussion item) (5 min) (no attachment)

Adjournment

Next regularly scheduled meeting, Monday, January 8, 2007.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

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- | | | |
|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

If a speaker is interrupted by questions, the interruption does not count against his/her time.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

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Board of Supervisors

Sunshine Ordinance Task Force

December 11, 2006

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE

MINUTES

Monday, December 11, 2006

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:12 p.m.

Roll Call Present: Knee, Comstock, Craven

Agenda Change Item #4 was heard midway in item #3a

Deputy City Attorney: Rosa, Sanchez.

Administrator: Frank Darby, Jr.

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1. Approval of minutes of November 15, 2006.

Speakers: Kimo Crossman said that the minutes are very good.

Motion to approve minutes of November 11, 2006. (Comstock / Craven)

Ayes: Knee, Comstock, Craven

The Administrator asked the Task Force to consider increasing the time for public comment on a section of the Ordinance rather than allow public comment on each subsection.

Chair Knee, in accordance with Committee consensus, stated that a decision will be made at the beginning of each section of the Ordinance whether to provide public comment on each subsection.

2. 06011 Continued hearing on the status of the September 26, 2006 Order of Determination of Beth Rimbey vs. Office of Emergency Services and the Mayors Office of Communications

Speakers: None

Continued by agreement of both parties prior to the meeting.

Member Knee indicated that this item is postponed indefinitely; that the parties are working together to resolve pending issues and expect to submit a response to the Committee in February 2007.

3. Possible amendments to Sections 67.20 to 67.29-7 of the Sunshine Ordinance and subsequent sections as time permits.
 - a. Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals
 - b. Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
 - c. Sec 67.22 Release of Oral Public Information
 - d. Sec 67.23 Public Review File – Policy Body Communications.
 - e. Sec 67.24 Public Information that Must Be Disclosed.
 - f. Sec 67.25 Immediacy of Response
 - g. Sec 67.26 Withholding Kept to a Minimum
 - h. Sec 67.27 Justification of Withholding
 - i. Sec 67.28 Fees for Duplication
 - j. Sec 67.29 Index to Records
 - k. Sec 67.29-1 Records Survive Transition of Officials.
 - l. Sec 67.29-2 Internet Access/World Wide Web Minimum Standards
 - m. Sec 67.29-3
 - n. Sec 67.29-4 Lobbyist On Behalf of the City
 - o. Sec 67.29-5 Calendars of Certain Officials
 - p. Sec 67.29-6 Sources of Outside Funding
 - q. Sec 67.29-7 Correspondence and Records Shall Be Maintained

Speakers: Allen Grossman, provided a handout of suggested changes and spoke regarding 67.21: that the Ordinance should be clear as to whether the Department head or custodian should appear at meetings; that the Task Force's findings in their Order of Determination should have evidentiary value in court and should not be "undercut." He said that the Supervisor of Records report should have a due date; that there should be no attorney-client privilege regarding Sunshine matters; that oral advice from the City Attorney must not be permitted.

Kimo Crossman commented on sections that were not on the agenda and was subsequently cautioned by Chair Knee to speak only on sections under discussion. Mr. Crossman provided a handout of suggested changes and spoke regarding 67.21: that all attorney work product should be public records; that all oral advice from the City Attorney should be recorded; that all advice from the attorney during the meeting should be in the minutes; that the Task Force haven't addressed the work product issue.

Sections 67.21, 67.25, 67.22 were discussed and the Administrator recorded recommended amendments.

Chair Knee, in accordance with Committee consensus, asked DCA Sanchez to asked DCA Llorente to report to the Committee on how the

City Attorney's Office tracks employee's time and expense responding to Sunshine and Public Records matters.

Member Comstock suggested that the Supervisor of Public Records report include an estimated cost expended by the City Attorney's Office for responding to Sunshine and Public Records matters.

Chair Knee, in accordance with Committee consensus, asked the Administrator to identify for discussion and possible action Sections 67.21 through 67.29-7 of the Sunshine Ordinance for the December 2006, meeting agenda, and to note that subsequent sections may be heard if time permits.

5. Public comment on items not listed on the agenda.

Speakers: Kimo Crossman said the Board of Supervisors revised the Clerk of the Board's motion regarding electronic records. He thanked the Task Force for their support. He said that he is pleased with DCA Rosa Sanchez being neutral. He hopes that the Committee is reviewing his proposed amendments in advance of the meeting.

Chair Knee informed the public that the Clerk of the Board can not make a motion; that she testified to being neutral with regards to the Boards electronic records. Also, that he was hopeful that the compliment to DCA Rosa Sanchez, by Mr. Crossman, was not meant to be disparaging toward DCA Ernie Llorente.

Allen Grossman said that he will talk about the City Attorney's role when that section is discussed.

6. Administrator's report.

The Administrator submitted the report.

Speakers: None

7. Announcements, questions, and future agenda items from Committee members.

Member Comstock indicated that at the BOS Rules Committee that Supervisor Mirkarimi stressed the importance of expediting the proposed amendments to the Ordinance.

Adjournment The meeting was adjourned at 6:56 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force



City Hall
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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Monday, January 8, 2007
4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of December 11, 2006. (action item) (attachments)
2. 06018/ Hearing on the status of the December 20, 2006 Order of Determination of Daisy
06023 Anarchy and Hima B. vs. the Entertainment Commission (discussion and possible
action) (attachment)
3. 06019 Hearing on the status of the December 20, 2006 Order of Determination of SFSM on
behalf of Doctor Wayne Lanier vs. the Mayor's Office (discussion and possible action)
(attachment)
4. Public comment on items not listed on the agenda. (no action) (no attachment)
5. Possible amendments to Sections 67.21 to 67.29-7 of the Sunshine Ordinance and
subsequent sections as time permits. (discussion and possible action item)
(attachment)
 - (a.) Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals
 - (b.) Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
 - (c.) Sec 67.22 Release of Oral Public Information
 - (d.) Sec 67.23 Public Review File – Policy Body Communications.
 - (e.) Sec 67.24 Public Information that Must Be Disclosed.
 - (f.) Sec 67.25 Immediacy of Response
 - (g.) Sec 67.26 Withholding Kept to a Minimum
 - (h.) Sec 67.27 Justification of Withholding
 - (i.) Sec 67.28 Fees for Duplication
 - (j.) Sec 67.29 Index to Records
 - (k.) Sec 67.29-1 Records Survive Transition of Officials.
 - (l.) Sec 67.29-2 Internet Access/World Wide Web Minimum Standards

(m.) Sec 67.29-3

(n.) Sec 67.29-4 Lobbyist On Behalf of the City

(o.) Sec 67.29-5 Calendars of Certain Officials

(p.) Sec 67.29-6 Sources of Outside Funding

(q.) Sec 67.29-7 Correspondence and Records Shall Be Maintained

6. Administrator's report. (attachment)
7. Announcements, questions, and future agenda items from Committee members.
(discussion item) (5 min) (no attachment)

Adjournment **Next regularly scheduled meeting, Monday, February 12, 2007.**

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

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January 08, 2007

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE**

MINUTES

Monday, January 08, 2007

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:05 p.m.

Roll Call Present: Knee, Comstock, Craven

Agenda Change None

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby, Jr.

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1. Approval of minutes of December 11, 2006.
Speakers: None
Motion to approve minutes of December 11, 2006. (Comstock / Craven)
Ayes: Knee, Comstock, Craven
2. 06018/06023 Hearing on the status of the December 20, 2006 Order of Determination of Daisy Anarchy and Hima B. vs. the Entertainment Commission.
Speakers: None
No action taken
Chair Knee, in accordance with Committee consensus, asked the Administrator to request the Mayor's Office presence for the January 23, full Task Force meeting.
3. 06019 Hearing on the status of the December 20, 2006 Order of Determination of SF5M on behalf of Doctor Wayne Lanier vs. the Mayor's Office
Member Comstock indicated that since he was recused from the discussion of this complaint, the signer for the Order of Determination should be Vice-Chair Craven.
Chair Knee in accordance with Committee consensus asked to Administrator to correct the Order of Determination and to send the corrected order to the parties.
Member Comstock recused himself.
Speakers: Wayne Lanier, stated that he did not received documents in searchable PDF format as requested.
Kimo Crossman suggested that this item be pushed to the end of the meeting; that the Mayor's Office be called and instructed to appear at today's meeting.
Member Craven stated that the Task Force should have included language in its Order of Determination instructing the Mayor's Office to 1) report on the progress of their investigation with making secure redaction's in Lotus Notes, 2) to present their written policy on redacting information from the Mayor's calendar, and 3) to provide an electronic version of the prop G calendar in searchable PDF to the complainant.
Chair Knee, in accordance with committee consensus, stated that he will write a letter to the Mayor's Office requesting that they appear at the February 12, 2007 Compliance and Amendments Committee meeting to discuss the suggestion made by Member Craven.
Continued, without objection.
4. Public comment on items not listed on the agenda.

Speakers: Allen Grossman asked Members if they had received his letter. A regular habit of some agencies is to not show up for Task Force meeting to report on their progress which is indicative of a very arrogant attitude about Sunshine and the Task Force.

Kimo Crossman stated that he was displeased with how the Lanier matter was handled, which could have been continued to the end of the meeting.

5. Possible amendments to Sections 67.21 to 67.29-7 of the Sunshine Ordinance and subsequent sections as time permits.

- a. Sec 67.21 Process for Gaining Access to Public Records; Administrative Appeals
- b. Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
- c. Sec 67.22 Release of Oral Public Information
- d. Sec 67.23 Public Review File – Policy Body Communications.
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- m. Sec 67.29-3
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- o. Sec 67.29-5 Calendars of Certain Officials
- p. Sec 67.29-6 Sources of Outside Funding
- q. Sec 67.29-7 Correspondence and Records Shall Be Maintained

Speakers: Kimo Crossman suggested that: 67.21 (n) include language that allow inspection on a computer monitor in its original format; 67.21-1 be strengthened; 67.23 require departments to provide a daily report indicating who worked on the request and the amount of time taken to complete the request; 67.24 be strengthened to make it easier to get oral information; 67.25 require departments to keep information on the web in its original format, retained permanently, and keeping personal e-mail addresses; 67.26 require that all communications during contract negotiations be recorded, and identified when information is to be released.

Allen Grossman said that adding detailed rules of behavior in 67.23 shouldn't be necessary, however there should be a remedy regarding the 14 day extension.

Sections 67.21 through 67.27 were discussed and the Administrator recorded recommended amendments.

Chair Knee, in accordance with Committee consensus, asked the Administrator to identify for discussion and possible action Sections 67.8-1, 67.21 (n), 67.21-1, 67.24, and 67.26 through 67.29-7 of the Sunshine Ordinance for the February 2007, meeting agenda, and to note that subsequent sections may be heard if time permits.

6. Administrator's report.

The Administrator submitted the report.

Speakers: Kimo Crossman requested that his complaint (#06035) be heard at the January 23, 2007 full Task Force meeting; that he may not be able to attend tomorrow's meetings and may want to call in to testify via phone.

7. Announcements, questions, and future agenda items from Committee members.

Speakers: None

Adjournment The meeting was adjourned at 6:06 p.m.

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Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Monday, February 12, 2007
4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order
Roll Call
Agenda Changes

1. Approval of minutes of January 8, 2007. (action item) (attachments)
2. 06019 Continued hearing on the status of the December 20, 2006 Order of Determination of SFSM on behalf of Doctor Wayne Lanier vs. Mayor's Office (discussion and possible action) (attachment)
3. 06025 Hearing on the status of the January 23, 2007 Order of Determination of Kimo Crossman vs. Department of Telecommunications and Information Services (discussion and possible action) (attachment)
4. 06027 Hearing on the status of the January 23, 2007 Order of Determination of Kimo Crossman vs. Department of Telecommunications and Information Services (discussion and possible action) (attachment)
5. 06033 Hearing on the status of the January 23, 2007 Order of Determination of Mary McGuire vs. Taxi Commission (discussion and possible action) (attachment)
6. 06034 Hearing on the status of the January 23, 2007 Order of Determination of Jason Garza vs. Department of Public Health - SF General Hospital (discussion and possible action) (attachment)
7. Public comment on items not listed on the agenda. (no action) (no attachment)

8. Possible amendments to Sections 67.8-1, 67.21 (n), 67.21-1, 67.22, 67.24, and 67.26 to 67.29-7 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
- (a.) Sec 67.8-1 Additional Requirements for Closed Sessions
 - (b.) Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals
 - (c.) Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
 - (d.) Sec 67.22 Release of Oral Public Information
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 - (p.) Sec 67.29-7 Correspondence and Records Shall Be Maintained
9. Administrator's report. (attachment)
10. Announcements, questions, and future agenda items from Committee members. (discussion item) (5 min) (no attachment)

Adjournment

Next regularly scheduled meeting, Monday, March 12, 2007.

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| 2. | City responds | 5 minutes |
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|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

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February 12, 2007

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

Monday, February 12, 2007

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven (arrived at 4:08)

Call to Order 4:07 p.m.

Roll Call Present: Knee, Comstock, Craven

Agenda Change Items were heard in the following order: 1, 6, 2, 5, 7, 3, 4, 9, 10, 8

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby, Jr.

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1. Approval of minutes of January 8, 2007.
Speakers: None
Motion to approve minutes of January 8, 2007. (Comstock / Craven)
Ayes: Knee, Comstock, Craven
2. 06019 Continued hearing on the status of the December 20, 2006 Order of Determination of SFSM on behalf of Doctor Wayne Lanier vs. Mayor's Office.
Member Comstock recused himself.
Speakers: Dr. Wayne Lanier, Complainant; said that he is still waiting to received the documents in the requested format. Joe Arellano, Mayor's Office of Communications reported that the Mayor's Office has 1) investigated securing redaction's in Lotus Notes; that it would require the creation of a separate calendar along side the Mayor's working calendar, at a substantial cost and that they are looking into a workaround, 2) Regarding their redaction policy Mr. Arellano said that the Mayor's calendar will include the names of all City officers including department heads, public, and other city and elected officials, employees, and dignitaries, community groups, and unions, and for private citizens the issues discussed. He said that the calendar will not include any private telephone numbers, addresses or personal events, and 3) Mr. Arellano said that it is impossible to provide a complete calendar in searchable PDF to Dr. Lanier because some documents are lost and a portion of the calendar (March – August 2006) is in paper form and the other (September – November 2006) is in MS Word.
Christian Holmer said that there are various departments which are following the rules to convert to PDF
Kimo Crossman said that there is no written response from MOC regarding a redaction policy; that the Prop G calendar is not relevant as is Prop 59 and the California Public Records Act.
Dr. Lanier, in response to Member Craven's question, said that he is willing to receive the calendar in MS Word rather than PDF.
The Committee by consensus asked Mr. Arellano to report to the Committee 1) The cost to create/design a new -compatible calendar in Lotus Notes calendar and 2) to provide the Committee with the Mayor's written policy for formulation of the Prop G calendar.
Continued, by consensus of the Committee.
3. 06025 Hearing on the status of the January 23, 2007 Order of Determination of Kimo Crossman vs. Department of Telecommunications and Information Services.
Chair Knee asked the Administrator to call Ron Vinson to request his attendance at the hearing. The Administrator called Mr. Vinson's office phone but was unable to contact him.

Speakers: Kimo Crossman, Complainant, said that he received no response from DTIS and asked that DTIS be found in "default and official misconduct."

Member Comstock asked the DCA Llorente to explain official misconduct. DCA Llorente referred him to Section 67.34 of the Ordinance. He said that there are three levels of misconduct 1) Nonfeasance, 2) Misfeasance, and 3) Malfeasance, which must be considered before there is a determination of willful failure.

Motion to refer this matter to the full Task Force for further consideration of the Compliance and Amendments Committees recommendation that Ron Vinson, of the Department of Telecommunications and Information Services, be found in willful misconduct for failure to discharge his duties imposed by the Sunshine Ordinance with respect to Mr. Vinson's failure to respond to the Order of Determination issued by the full Task Force on January 23, 2007 and failure to appear before the Compliance and Amendments Committee; that potential referral, based on that finding, to the Ethics Commission and/or other appropriate body be considered. (Craven/Comstock)

Ayes: Knee, Comstock, Craven

4. 06027 Hearing on the status of the January 23, 2007 Order of Determination of Kimo Crossman vs. Department of Telecommunications and Information Services.

Speakers: Kimo Crossman, Complainant, asked that Ron Vinson and Chris Vein be found guilty of "official misconduct."

Motion to refer this matter to the full Task Force for further consideration of the Compliance and Amendments Committees recommendation that Ron Vinson, of the Department of Telecommunications and Information Services, be found in willful misconduct for failure to discharge his duties imposed by the Sunshine Ordinance with respect to the underline complaint, for failure to respond to the Order of Determination issued by the full Task Force on January 23, 2007, and for failure to appear before the Compliance and Amendments Committee; that potential referral, based on that finding, to the Ethics Commission and/or other appropriate body be considered. (Craven/Comstock)

Ayes: Knee, Comstock, Craven

Member Knee declared a three minute recess. He said that the meeting may be adjourned when the Committee is notified that discussions on an item of interest on the Ethics Commission agenda, who is meeting in an adjacent room, begin.

5. 06033 Hearing on the status of the January 23, 2007 Order of Determination of Mary McGuire vs. Taxi Commission.

Speakers: Mary McGuire, Complainant said that agendas are now posted outside of the meeting; however there isn't enough agenda packets available for the public during the hearing; Jordanna Thigpen, Taxi Commission reported that agendas are now posted outside of the meeting; that she will speak to the appropriate persons regarding the agenda packet.

Kimo Crossman said that the Task Force might want to amend the Ordinance to require that copies of the agenda packet be made available to the public during the meetings.

Chair Knee, by consensus of the Committee, asked Ms. Thigpen to, if feasible, provide more copies of the agenda packet at the meeting.

In accordance with Committee consensus, no further action was taken on this matter.

6. 06034 Hearing on the status of the January 23, 2007 Order of Determination of Jason Garza vs. Department of Public Health – SF General Hospital.

Speakers: Jason Garza, Complainant said that he still have not received all of the records that he requested, namely the Medical Screening.

Kimo Crossman urged the committee to make the Department accountable for not appearing at the hearing.

Member Comstock informed Mr. Garza that the Task Force can't order the release of his medical records; that he must sign for their release. He also told Mr. Garza that if he believes that there are some non-medical records that he requested but did not receive that he should file a new complaint and identify them, since the Task Force has already ruled on the matter.

In accordance with Committee consensus, no further action was taken on this matter

7. Public comment on items not listed on the agenda.

Speakers: Kimo Crossman expressed concerned that a sufficient number of packets are not available at meetings and can't see why a few extra copies can't be made.

Mary McGuire said that the Taxi Commissions entire budget come from fees from their industry and not the General fund.

8. Possible amendments to Sections 67.8-1, 67.21 (n), 67.21-1, 67.22, 67.24, and 67.26 to 67.29-7 of the Sunshine Ordinance and subsequent sections as time permits.

- a. Sec 67.8-1 Additional Requirements for Closed Sessions
- b. Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals
- c. Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
- d. Sec 67.22 Release of Oral Public Information
- e. Sec 67.24 Public Information that Must Be Disclosed.
- f. Sec 67.26 Withholding Kept to a Minimum
- g. Sec 67.27 Justification of Withholding
- h. Sec 67.28 Fees for Duplication
- i. Sec 67.29 Index to Records
- j. Sec 67.29-1 Records Survive Transition of Officials.
- k. Sec 67.29-2 Internet Access/World Wide Web Minimum Standards
- l. Sec 67.29-3
- m. Sec 67.29-4 Lobbyist On Behalf of the City
- n. Sec 67.29-5 Calendars of Certain Officials
- o. Sec 67.29-6 Sources of Outside Funding
- p. Sec 67.29-7 Correspondence and Records Shall Be Maintained

Speakers: Kimo Crossman suggested that: 67.8-1 be amended to require each member of a policy body to sign an affidavit at the end of each closed session stating that they have followed proper procedures for closed sessions.

Proposed language for Section 67.8-1 was discussed but no changes were made. The section was continued by consensus of the Committee.

Deputy City Attorney Llorente was asked to create a draft amendment of Section 67.35, for the Committees review, that incorporates language as appropriate from the proposed new Section 67.19, provided by Member Comstock.

Chair Knee noted that the word requester is also spelled requestor and, in accordance with Committee consensus, asked the Administrator to make the spelling consistent throughout the proposed ordinance.

Member Comstock asked to be excused from the meeting, without objection.

Chair Knee moved to adjourn, without objection.

9. Administrator's report.

The Administrator submitted the report.

Speakers: Kimo Crossman urged the committee to ask the Administrator to continue experimenting with electronic recording of the meeting, and to post the recording on the web.

10. Announcements, questions, and future agenda items from Committee members.

Speakers: Member Comstock suggested that the regular meetings me moved back to the second Wednesday of each month.

Member Craven said she was okay with the changed provided that the meetings adjourn at 7:00 P.M.

Chair Knee, by consensus of the Committee, said that starting in March 14, 2007, meetings would be held on the second Wednesday of each month.

Chair Knee informed members that the local chapter of the Society of Professional Journalist is having their annual James Madison Awards dinner, honoring champions of the first amendment and freedom of information, on Tuesday, March 13, at the Biscuits and Blues restaurant in San Francisco.

Adjournment The meeting was adjourned at 6:13 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Wednesday, March 14, 2007
4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order
Roll Call
Agenda Changes

1. Approval of minutes of February 12, 2007. (action item) (attachments)
2. 06019 Continued hearing on the status of the December 20, 2006 Order of Determination of SFSM on behalf of Doctor Wayne Lanier vs. Mayor's Office (discussion and possible action) (attachment)
3. 07005 Hearing on the status of the February 27, 2007 Order of Determination of Kimo & Crossman vs. Department of Telecommunications and Information Services
07007 (discussion and possible action) (attachment)
4. Public comment on items not listed on the agenda. (no action) (no attachment)
5. Possible amendments to Sections 67.8-1, 67.21 (n), 67.21-1, 67.22, 67.24, and 67.26 to 67.29-7 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
 - (a.) Sec 67.8-1 Additional Requirements for Closed Sessions
 - (b.) Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals
 - (c.) Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
 - (d.) Sec 67.22 Release of Oral Public Information
 - (e.) Sec 67.24 Public Information that Must Be Disclosed.
 - (f.) Sec 67.26 Withholding Kept to a Minimum
 - (g.) Sec 67.27 Justification of Withholding
 - (h.) Sec 67.28 Fees for Duplication
 - (i.) Sec 67.29 Index to Records
 - (j.) Sec 67.29-1 Records Survive Transition of Officials.

- (k.) Sec 67.29-2 Internet Access/World Wide Web Minimum Standards
- (l.) Sec 67.29-3
- (m.) Sec 67.29-4 Lobbyist On Behalf of the City
- (n.) Sec 67.29-5 Calendars of Certain Officials
- (o.) Sec 67.29-6 Sources of Outside Funding
- (p.) Sec 67.29-7 Correspondence and Records Shall Be Maintained

- 6. Administrator's report. (attachment)
- 7. Announcements, questions, and future agenda items from Committee members.
(discussion item) (5 min) (no attachment)

Adjournment **Next regularly scheduled meeting, Wednesday, April 11, 2007.**

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

* a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854 or by email at soff@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine>

March 14, 2007

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

Monday, March 14, 2007

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven (arrived at 4:08)

Call to Order 4:04 p.m.

Roll Call Present: Knee, Comstock, Craven

Agenda Change Items were heard in the following order:

Deputy City Attorney: Rosa Sanchez

Administrator: Frank Darby, Jr.

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1. Approval of minutes of February 12, 2007.
Speakers: None
Motion to approve minutes of February 12, 2007. (Comstock / Craven)
Ayes: Knee, Comstock, Craven
2. 06019 Continued hearing on the status of the December 20, 2006 Order of Determination of SFSM on behalf of Doctor Wayne Lanier vs. Mayor's Office.
Member Comstock recused himself.
Speakers: Dr. Wayne Lanier, Complainant, said that the Task Force should consider allowing freedom of information to current and future information for the availability of future generations. Joe Arellano, Mayor's Office of Communications reported that the Mayor's Office has 1) created another Lotus notes calendar to comply with Prop. G. and 2) developed a protocol for the Mayor's calendar.
Kimo Crossman said that the Mayor's office still has not provided the full calendar.
Member Craven, by consensus of the Committee, directed Mr. Arellano to provide Dr. Lanier with a CD containing the MS Word version of the Mayor's calendar for September to November 2006, as he previously agreed to do.
Mr. Arellano agreed to provide Dr. Lanier with the Word document on a CD.
Chair Knee, by consensus, of the Committee said that no further action is needed on this item. He asked Dr. Lanier to notify the CAC if he does not receive the CD.
3. 07005 & 07007 Hearing on the status of the January 23, 2007 Order of Determination of Kimo Crossman vs. Department of Telecommunications and Information Services.
Member Craven asked to be recused since her law firm is currently representing Google regarding the City's Wi-Fi.
Member Craven was recused by consensus of the Committee.
Speakers: Kimo Crossman, Complainant, said that he received a 12mb non-searchable file from DTIS; that he did not receive a passive meeting notice regarding WiFi. Ron Vinson, Department of Telecommunications and Information Services said that he presented all documents in e-mail and in hardcopy; that although the material did not include a passive meeting notice it does include Chris Veins calendar.
Kimo Crossman said he received no notice about a passive meeting, the records were not provided in the requested format, and recommended that he and Ron Vinson meet to clarify his requests.

Member Knee, in accordance with Committee consensus, referred to the Task Force the Determination of whether the Department of Telecommunications and Information Services has fully complied with the Order of Determination.

4. Public comment on items not listed on the agenda.

Speakers: Kimo Crossman said that he is looking forward to discussing item #5.

5. Possible amendments to Sections 67.8-1, 67.21 (n), 67.21-1, 67.22, 67.24, and 67.26 to 67.29-7 of the Sunshine Ordinance and subsequent sections as time permits.

- a. Sec 67.8-1 Additional Requirements for Closed Sessions
- b. Sec. 67.21 Process for Gaining Access to Public Records; Administrative Appeals
- c. Sec 67.21-1 Policy Regarding Use and Purchase of Computer Systems.
- d. Sec 67.22 Release of Oral Public Information
- e. Sec 67.24 Public Information that Must Be Disclosed.
- f. Sec 67.26 Withholding Kept to a Minimum
- g. Sec 67.27 Justification of Withholding
- h. Sec 67.28 Fees for Duplication
- i. Sec 67.29 Index to Records
- j. Sec 67.29-1 Records Survive Transition of Officials.
- k. Sec 67.29-2 Internet Access/World Wide Web Minimum Standards
- l. Sec 67.29-3
- m. Sec 67.29-4 Lobbyist On Behalf of the City
- n. Sec 67.29-5 Calendars of Certain Officials
- o. Sec 67.29-6 Sources of Outside Funding
- p. Sec 67.29-7 Correspondence and Records Shall Be Maintained

Speakers: Kimo Crossman suggested that: 67.8-1 be amended to require policy body members to sign an affidavit at the end of each closed session regarding following proper procedures; 67.21 be amended to require that all communications, including oral conversations, be recorded; 67.28 clearly identify the cost of the meeting packet. 67.29 that the index of records is not clear or useful.

Sections 67.8-1 through 67.29 were discussed and the Administrator recorded recommended amendments.

Member Comstock suggested that John St. Croix of the Ethics Commission be invited to talk about Sections 67.29-4, 67.34, and 67.35

Member Craven suggested that Sections 67.29-3 and 67.29-6 be deleted since they don't seem to be related to open government.

Chair Knee will draft a proposed amendment to combine Sections 67.29-1 and 67.29-7.

Member Craven will draft a proposed amendment for Section 67.24

Chair Knee, in accordance with Committee consensus, asked the Administrator to identify for discussion and possible action Sections 67.8-1, 67.24, 67.29-3, 67.29-4, 67.29-6, 67.29-7, and 67.30 through 67.35 of the Sunshine Ordinance for the April 2007, meeting agenda, and to note that subsequent sections may be heard if time permits.

6. Administrator's report.

The Administrator submitted the report.

In response to Member Comstock's question regarding posting formats on the Internet, the Administrator said that the Department only post information in portable document format to preserve the font image and layout of the document, and because it is a universal format.

Chair Knee agreed to write a letter to the Clerk of the Board regarding the policy.

Speakers: Kimo Crossman alleged that the Administrator is not full time and not giving priority to Sunshine. He alleged that he hasn't been able to get a response for two weeks, and that he is surprised that the Administrator can set policy with regards to Sunshine by only allowing the posting of documents in PDF. He hopes that the Task Force advocates for a full time Administrator.

7.

Announcements, questions, and future agenda items from Committee members.

Member Comstock will draft a letter to the Board of Supervisors wishing them a happy Sunshine week and informing them that the Task Force will begin reviewing Articles I and II for possible amendments. They will be welcomed to attend or provide advice.

Speakers: None

Adjournment The meeting was adjourned at 7:24 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



<http://www.sfgov.org/sunshine>

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Wednesday, April 11, 2007
4:00 p.m., City Hall, Room 406

2:15 p.m. not
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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of March 14, 2007. (action item) (attachments)
2. 07005 Hearing on the status of the February 27, 2007 Order of Determination of Kimo
& Crossman vs. Department of Telecommunications and Information Services.
07007 (discussion and possible action) (attachment)
3. 06031 Hearing on the status of the March 27, 2007 Order of Determination of Cynthia Laird
vs. Department of Public Health. (discussion and possible action) (attachment)
4. 07001 Hearing on the status of the March 27, 2007 Order of Determination of Debra Ward
vs. Municipal Transportation Agency. (discussion and possible action) (attachment)
5. 07002a Hearing on the status of the March 27, 2007 Order of Determination of Kimo
Crossman vs. Mayor's Office. (discussion and possible action) (attachment)
6. 07002b Hearing on the status of the March 27, 2007 Order of Determination of Kimo
Crossman vs. Mayor's Office. (discussion and possible action) (attachment)
7. 07008 Hearing on the status of the March 27, 2007 Order of Determination of Kimo
Crossman vs. Public Utilities Commission. (discussion and possible action)
(attachment)
8. 07009 Hearing on the status of the March 27, 2007 Order of Determination of Kimo
Crossman vs. Mayor's Office. (discussion and possible action) (attachment)

9. 07010 Hearing on the status of the March 27, 2007 Order of Determination of Allen Grossman vs. City Attorney's Office. (discussion and possible action) (attachment)
10. Public comment on items not listed on the agenda. (no action) (no attachment)
11. Possible amendments to Sections 67.30 (New) 67.8-1, 67.24, 67.29-3, 4, 6, and 7, and 67.30 to 67.35 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
- (a.) Sec 67.30 (New) Minimum Standards; Electronic Records; Computer Systems; Web Postings
 - (b.) Sec 67.8-1 Additional Requirements for Closed Sessions.
 - (c.) Sec 67.24 Public Information that Must Be Disclosed.
 - (d.) Sec 67.29-1 Records Survive Transition of Officials.
 - (e.) Sec 67.29-3
 - (f.) Sec 67.29-4 Lobbyist On Behalf of the City.
 - (g.) Sec 67.29-6 Sources of Outside Funding.
 - (h.) Sec 67.29-7 Correspondence and Records Shall Be Maintained.
 - (i.) Sec 67.30 The Sunshine Ordinance Task Force.
 - (j.) Sec 67.31 Responsibility for Administration.
 - (k.) Sec 67.32 Provision of Services to other Agencies; Sunshine Required.
 - (l.) Sec 67.33 Department Head Declaration.
 - (m.) Sec 67.34 Willful Failure Shall Be Official Misconduct.
 - (n.) Sec 67.35 Enforcement Provisions.
 - (o.) Sec 67.36 Sunshine Ordinance Supersedes Other Local Laws.
 - (p.) Sec 67.37 Severability.
 - (q.) Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.
12. Administrator's report. (attachment)
13. Announcements, questions, and future agenda items from Committee members. (discussion item) (5 min) (no attachment)

Adjournment

Next regularly scheduled meeting, Wednesday, May 9, 2007.

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

If a speaker is interrupted by questions, the interruption does not count against his/her time.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

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April 11, 2007

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

**Monday, April 11, 2007
4:00 p.m., City Hall, Room 406**

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven (arrived at 4:26)

Call to Order 4:10 p.m.

Roll Call Present: Knee, Comstock, Craven

Agenda Change Items were heard in the following order: 1, 4, 5, 3, 6, 7, 10, 8, 2, 11, 12, 13

Deputy City Attorney: Rosa Sanchez

Administrator: Frank Darby, Jr.

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Agenda Changes:

Member Comstock asked to agendize all matters concerning Mr. Crossman in secession after Item #9, for convenience and expedition. Without objection.

Chair Knee asked to strike item #9 from the agenda since no discussion is necessary. Without objection.

1. Approval of minutes of March 14, 2007.

Speakers: None

Member Comstock said that he will submit technical corrections to the Administrator.

Motion to approve minutes of March 14, 2007. (Comstock / Knee)

Ayes: Knee, Comstock

Absent: Craven

2. 07005 & Hearing on the status of the January 23, 2007 Order of Determination of Kimo Crossman vs. Department of
07007 Telecommunications and Information Services.

Member Craven was recused by consensus of the Committee.

Speakers: Kimo Crossman, Complaint, said that he still has not had a meeting with DTIS; that he has not received a complete set of documents or a response. He said, that DTIS did not comply with the Order of Determination.

Motion to refer to the Task Force the Determination of whether the Department of Telecommunications and Information Services has fully complied with the Order of Determination. (Comstock / Knee)

Ayes: Knee, Comstock

Recused: Craven

3. 06031 Hearing on the status of the March 27, 2007 Order of Determination of Cynthia Laird vs. Department of Public Health.
Member Comstock was recused by consensus of the Committee.

Speakers: Cynthia Laird, Complainant, said that she no additional information. Respondent: Israel Nieves, said that the Department is now making an introduction, at the beginning of the meeting, that photography is allowed.

After a brief discussion the Committee took no action on this item.

4. 07001 Hearing on the status of the March 27, 2007 Order of Determination of Debra Ward vs. Municipal Transportation Agency.

Continued by agreement of both parties prior to the meeting.

5. 07002a Hearing on the status of the March 27, 2007 Order of Determination of Kimo Crossman vs. Mayor's Office.

Speakers: Kimo Crossman, Complainant, said that he hasn't received written justification as required in the Order of Determination. Joe Arellano, Respondent, said that he has no information regarding the Mayor's December 13, 2006 working calendar, but that he has the proposition G calendar, which he can provide to Mr. Crossman. He said he also has some redactable information for December 13, 2006, that would normally be redacted containing private phone numbers, security detail information, and private meetings with the Mayor.

Kimo Crossman, in rebuttal said that he still has not received written justification or a written response.

Motion to refer this matter to the full Task Force for further consideration of the Compliance and Amendments Committees recommendation that the Mayor's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the full Task Force on March 27, 2007; that potential referral, based on that finding, to another appropriate body be considered. (Craven / Comstock)

Ayes: Knee, Comstock, Craven

6. 07002b Hearing on the status of the March 27, 2007 Order of Determination of Kimo Crossman vs. Mayor's Office.

Speakers: Kimo Crossman, Complainant, said that he hasn't received an version of the Mayor's working calendar or justification for withholding. Joe Arellano, Respondent, said that the Mayors Office continues to comply with Section 67.29-5 of the Ordinance with regards to the Prop G calendar, which does not require the listing of names of individuals or meetings outside City Hall where no substantive business of the City is discussed. He said that the Mayor's Prop G calendar will continue to be provided, but not the Mayor's working calendar.

Kimo Crossman, in rebuttal said that the Mayor's working calendar is subject to disclosure and he still has not received a properly redacted version of the calendar.

Motion to refer this matter to the full Task Force for further consideration of the Compliance and Amendments Committees recommendation that the Mayor's Office be found in continued violation for failure to preserve records in accordance with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on March 27, 2007; that potential referral, based on that finding, to another appropriate body be considered. (Craven / Comstock)

Ayes: Knee, Comstock, Craven

7. 07008 Hearing on the status of the March 27, 2007 Order of Determination of Kimo Crossman vs. Public Utilities Commission.

Member Craven indicated that her spouse has accepted employment with the PUC, but feels that she can be fair and impartial. She asked if recusal was necessary.

DCA Sanchez said that since Member Craven felt that she could be fair the decision was at Member Craven's discretion.

Michael Housh, Respondent said that he did not object to Member Craven hearing the matter.

Member Craven said that due her spouse's financial benefit she would recuse herself.

Motion to recuse Member Craven (Knee/Craven)

Ayes: Knee, Craven

Noes: Comstock

Member Comstock, said that he only recuses himself when he feels that he cannot be fair.

Luilla Harris said that recusal is irrelevant since Member Craven's spouse has not begin working.

Speakers: Kimo Crossman, Complainant, said that he hasn't received a written response and that the PUC should be found in violation for not sending their most knowledgeable person. Michael Housh, Respondent, said that he is the most knowledgeable person. He said that all commissioners have an official e-mail address and that on occasion he may send correspondence to their personal e-mail address as a backup. He formally petitioned the Task Force to reconsider its ruling.

Kimo Crossman, in rebuttal said that the complaint couldn't be retried. He said, that the commission has no expectation of privacy, and asked for finding of a violation.

Motion to refer this matter to the full Task Force for further consideration of the Compliance and Amendments Committees recommendation that the Public Utilities Commission be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on March 27, 2007; that potential referral, based on that finding, to another appropriate body be considered. (Comstock / Knee)

Ayes: Knee, Comstock

Recused: Craven

8. 07009

Hearing on the status of the March 27, 2007 Order of Determination of Kimo Crossman vs. Mayor's Office.

Speakers: Kimo Crossman, Complainant, said that he hasn't received any response on this matter from the Mayor's Office; that the Mayor's Office destroyed records after they were requested. Joe Arellano, Respondent, said that he provided Mr. Crossman with an RSVP list, and the mailed and e-mailed invitation. He said that the e-mails that went out from the Mayor's Office of Neighborhood Services were purged before he could obtain them.

Kimo Crossman, in rebuttal said the Task Force has already found a violation, and that there has been no response.

Motion to refer this matter to the full Task Force for further consideration of the Compliance and Amendments Committees recommendation that the Mayor's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the full Task Force on March 27, 2007. (Comstock / Knee)

Ayes: Knee, Comstock, Craven

9. 07010

Hearing on the status of the March 27, 2007 Order of Determination of Allen Grossman vs. City Attorney's Office.

No action taken on this item.

10.

Public comment on items not listed on the agenda.

Speakers: Kimo Crossman encouraged the Task Force to review the Ordinance from a best practice viewpoint, rather than incrementally; that the Task Force should get a copy of San Jose's proposed Ordinance. He urged the Task Force to invite someone from the San Jose Reform Commission to speak to them regarding their proposed ordinance.

11.

Possible amendments to Sections 67.30 (New) 67.8-1, 67.24, 67.29-3, 4, 6, and 7, and 67.30 to 67.35 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)

- a. Sec 67.30 (New) Minimum Standards; Electronic Records; Computer Systems; Web Postings
- b. Sec 67.8-1 Additional Requirements for Closed Sessions.
- c. Sec 67.24 Public Information that Must Be Disclosed.
- d. Sec 67.29-1 Records Survive Transition of Officials.
- e. Sec 67.29-3
- f. Sec 67.29-4 Lobbyist On Behalf of the City.
- g. Sec 67.29-6 Sources of Outside Funding.
- h. Sec 67.29-7 Correspondence and Records Shall Be Maintained.
- i. Sec 67.30 The Sunshine Ordinance Task Force.
- j. Sec 67.31 Responsibility for Administration.
- k. Sec 67.32 Provision of Services to other Agencies; Sunshine Required.
- l. Sec 67.33 Department Head Declaration.
- m. Sec 67.34 Willful Failure Shall Be Official Misconduct.
- n. Sec 67.35 Enforcement Provisions.
- o. Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.
- p. Sec 67.37 Severability.

- q. Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.

Chair Knee invited John St. Croix, Executive Director, Ethics Commission (EC) to sit in the commission area to respond to questions of the Task Force.

Mr. St. Croix explained the difference between the Lobbyist Ordinance and Section 67.29-4 of the Sunshine Ordinance. He said, that there is not overlap between the two and recommended that Section 67.29-4 remain unchanged.

The Committee asked Mr. St. Croix to explain their procedures for finding a willful violation pursuant to Section 67.34. Mr. St. Croix said that willful misconduct is difficult to prove; that in order for the EC to find a willful misconduct that have to first confirm that there is a violation due to the preponderance of evidence. He said, that the EC reviews the file provided by the Task Force and may contact the parties, if necessary; that the EC discussions are confidential. He said, that it is help for the Task Force to provide all documentation that they believe support a finding of willful misconduct and to indicate what level of willful misconduct occurred.

Kimo Crossman said that there is a dispute about 1) whether the Task Force can go into closed session, with participation by the Ethics Commission, 2) the EC's fee structure change, and 3) the willful misconduct definition which, he feels, doesn't require a large amount of evidence.

Speakers: Re: 67.24, Kimo Crossman suggested that another term be used rather than the word "award" regarding contracts, because there are disputes as to when contracts are awarded. He asked that documents be made available for Requests for Clarification, Requests for Information, and Requests for Qualifications and not just Request for Proposals. He also asked that an amendment be added to require the recording of contract negotiations.

Sections 67.30 (New), 67.8-1 and 67.24 were discussed and the Administrator recorded recommended amendments.

Chair Knee will write a letter inviting someone from the Office of Contract Administration to the next CAC meeting to discuss: when RFP's become available to the public and when RFP's are disclosed to members of a Policy Body, and to provide general comments on Section 67.24 (e).

Chair Knee, in accordance with Committee consensus, asked the Administrator to identify for discussion and possible action Sections 67.24, 67.29-3, 67.29-4, 67.29-6, 67.29-7, and 67.30 through 67.35 of the Sunshine Ordinance for the April 2007, meeting agenda, and to note that subsequent sections may be heard if time permits.

12.

Administrator's report.

The Administrator submitted the report.

Speaker: Kimo Crossman asked the Committee to submit a request to the Board of Supervisors that they fund a full time Administrator.

13.

Announcements, questions, and future agenda items from Committee members.

Member Comstock presented a copy of the response he received from the Ethics Commissions regarding his document disclosure request and the Legislative Draft from the last version of the amendments sent to the Board of Supervisors in 2004.

Speakers: None

Adjournment The meeting was adjourned at 7:24 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 941 02-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA

Wednesday, May 9, 2007
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order
Roll Call
Agenda Changes

1. Approval of minutes of April 11, 2007. (action item) (attachments)
2. 07001 Hearing on the status of the March 27, 2007 Order of Determination of Debra Ward vs. Municipal Transportation Agency. (discussion and possible action) (attachment)
3. 07011 Hearing on the status of the March 27, 2007 Order of Determination of Kimo Crossman vs. Sheriff's Office. (discussion and possible action) (attachment)
4. 07018 Hearing on the status of the April 24, 2007 Order of Determination of Peter Warfield vs. Sunshine Ordinance Task Force Administrator and Clerk of the Board of Supervisors. (discussion and possible action) (attachment)
5. 07023 The Sunshine Ordinance Task Force has referred to the Compliance and Amendments Committee, for consideration, the complaint of Kimo Crossman vs. Department of Telecommunications and Information Services, since the issues raised are the same as the issues raised in prior complaints previously acted on by the Task Force. (discussion and possible action) (attachment)
6. Public comment on items not listed on the agenda. (no action) (no attachment)
7. Discussion re: the method(s) and at what procedural juncture(s) different types of requests, bids and proposals are released to the public and/or to City/County policy bodies. (discussion) (no attachment)

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8. Possible amendments to Sections 67.24, 67.29-3, 4, 6, and 7, and 67.30 to 67A.1 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)

Sec 67.24 Public Information that Must Be Disclosed.

Sec 67.29-3

Sec 67.29-4 Lobbyist On Behalf of the City.

Sec 67.29-6 Sources of Outside Funding.

Sec 67.29-7 Correspondence and Records Shall Be Maintained.

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine Required.

Sec 67.33 Department Head Declaration.

Sec 67.34 Willful Failure Shall Be Official Misconduct.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.

Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.

9. Administrator's report. (attachment)
10. Announcements, questions, and future agenda items from Committee members. (discussion item) (5 min) (no attachment)

Adjournment Next regularly scheduled meeting, Wednesday, June 13, 2007.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |

- | | |
|----|---|
| 5. | Matter is with the Task Force for discussion and deliberation |
| 6. | Vote by Task Force |

Note: Time must be adhered to

If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at soft@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

May 09, 2007
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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

Wednesday, May 9, 2007
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Call to Order 4:04 p.m.

Roll Call Present: Knee, Comstock, Craven

Agenda Change Item # 7 was heard before Item #6

Deputy City Attorney: Rosa Sanchez

Administrator: Frank Darby, Jr.

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1. Approval of minutes of April 11, 2007.

Speakers: None

Chair Knee asked the Administrator, in the future, to spell out words rather than use acronyms, the first time that they are used.

Motion to approve minutes of April 11, 2007. (Comstock / Craven)

Ayes: Knee, Comstock, Craven

2. 07001 Hearing on the status of the March 27, 2007, Order of Determination re Debra Ward vs. Municipal Transportation Agency.

Continued by agreement of both parties prior to the meeting.

3. 07011 Hearing on the status of the April 24, 2007, Order of Determination re Kim Crossman vs. Sheriff's Office.

The Administrator informed the Committee that Sheriff's Attorney James Harrigan said that he would not be able to attend the hearing but had submitted a letter, which was distributed to Committee members.

Speakers: Kim Crossman, Complainant, said that the Sheriff's Office has no valid reason for not providing a videotape he had requested. He handed out material to the Task Force that he said proves how easy it is to provide the videotape and shows the level of detail requested. He said that two other departments have access to the tape, and that there is no written policy regarding who controls videotapes. He asked the Committee to refer the matter to the full Task Force for findings of willful failure to comply with the Task Force's Order of Determination and willful misconduct on the part of Sheriff Michael Hennessey.

Motion to refer the item to the Task Force with a recommendation that the Sheriff's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the Task Force on April 24, 2007; that referral, based on that finding, to the Ethics Commission be considered. (Knee / Craven)

Ayes: Knee, Comstock, Craven

4. 07018 Hearing on the status of the April 24, 2007, Order of Determination re Peter Warfield vs. Sunshine Ordinance Task Force Administrator and Clerk of the Board of Supervisors.

Member Knee said that the Complainant submitted a letter stating that he could not attend the hearing and since neither the Complainant nor Respondent was present, the matter should be continued.

Continued by consensus.

5. 07023

The Sunshine Ordinance Task Force has referred to the Committee the complaint of Kimo Crossman vs. Department of Telecommunications and Information Services, since the issues are the same as those raised in prior complaints acted on by the Task Force.

Member Craven recused herself.

Speakers: Kimo Crossman, Complainant, said that e-mails still have not been provided. That he submitted a new request for the information and the Department requested a 14-day extension, although an Order of Determination had already been issued. He asked that Chris Vein and Ron Vinson be found in willful failure and official misconduct.

Motion to refer the item to the Task Force with a recommendation that the Department of Telecommunications and Information Services be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determinations issued by the full Task Force on January 23, 2007; that referral, based on that finding, to the Ethics Commission be considered. (Knee / Comstock)

Ayes: Knee, Comstock

Recused: Craven

Chair Knee reopened discussion on this item upon the arrival of Respondent, Ron Vinson. He informed Mr. Vinson of the motion that was adopted by the Committee prior to his arrival.

Respondent, said that the Department has provided a detailed response to the Orders of Determination as instructed by the Task Force, and that copies of the material were provided to the Task Force. He said that there is no misconduct to warrant a referral to the Ethics Commission and asked for justification.

Chair Knee responded that the matter was referred to the Ethics Commission because the Task Force does not have the authority to discipline or impose a penalty.

Kimo Crossman, in rebuttal, said that no records had been produced. He said that the only option is to refer the matter to another body

The Committee, by consensus, did not reconsider its prior motion.

6. Public comment on items not listed on the agenda.

Speakers: Kimo Crossman said that the Administrator does not let parties know when a department cannot attend a hearing. He questioned the dates listed in the letter by the Sheriff's office. He said that departments wait until the last minute to submit material. He encouraged the Task Force to instruct the Administrator to notify parties as soon as he/she receives such notice from departments.

7. Discussion re the method(s) and at what procedural juncture(s) different types of requests, bids and proposals are released to the public and/or to City/County policy bodies.

Speakers: Lynn Khaw, Office of Contract appearing at the Committee's request, discussed the Department's procedures and processes for Request for Bids, Requests for Proposals, Requests for Information, Requests for Quotes, and Requests for Qualifications. She also discussed the contracting process, including when requests are made available to the public and the circumstances during which contracts go before the Board; she said vendor responses are publicly available after a contract has been awarded. She said that requests are sent to and received from vendors who are on the approved list of City store vendors and those who respond to their web site notice. She also described how a panel might be composed.

Kimo Crossman said that Departments can do what they want, but no one will sue them because then the City won't hire them; that Departments have guidelines, but are free to do what they want. He said he doesn't know how panelists are qualified to serve or how trade secrets are used to bar access to information. He said that the public should be able to see the records.

8. Possible amendments to Sections 67.24, 67.29-3, 4, 6, and 7, and 67.30 to 67A.1 of the Sunshine Ordinance and subsequent sections as time permits

Sec 67.24 Public Information that Must Be Disclosed.

Sec 67.29-3

Sec 67.29-4 Lobbyist On Behalf of the City.

Sec 67.29-6 Sources of Outside Funding.

Sec 67.29-7 Correspondence and Records Shall Be Maintained.

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine Required.

Sec 67.33 Department Head Declaration.

Sec 67.34 Willful Failure Shall Be Official Misconduct.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.

Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.

Member Comstock asked DCA Sanchez about the requirement to make the Task Force into a Commission. DCA Sanchez responded that there would have to be a City Charter amendment put before the voters redesignating the Task Force as a Commission and vesting the body with enforcement powers.

Speakers: Re: §67.24, Kimo Crossman recommended that contract negotiations and oral discussions be recorded: that the word "awarded" be changed to "finally negotiated document." Asked that there be a discussion regarding trade secrets.

Re: § 67.28 (new), Kimo Crossman recommended that language be added that requires a finding for restricting information and that information be restricted minimally.

Re: § 67.29-3 Kimo Crossman said that Bruce Brugmann of the Bay Guardian should be contacted and asked about this section before it is removed.

Member Knee said that he would inform Mr. Brugmann of the discussion.

Re: § 67.29-7 Kimo Crossman said that he was confused about what's being changed, but that there should be language about preserving documents in a professional and businesslike manner when City officials leave office. He recommended that the SF Superior Court, outside counsel or a DCA from another county oversee records retention during such transitions.

Chair Knee, by consensus of the Committee, said that he will invite Joe Lynn, former Ethics Commissioner, to discuss his efforts and insights on incorporating the Ethics Commission into the Charter and to suggest ideas for improving the Sunshine Ordinance.

Chair Knee, by consensus of the Committee, asked DCA Sanchez to ask DCA Llorente to provide a report to the Committee re: 1) The procedure for redesignating the Task Force as a Commission, 2) The impact to the Task Force if it became a Commission, its composition and its added powers, and 3) Whether the Task Force has to become a Commission to get enforcement powers.

Chair Knee, in accordance with Committee consensus, asked the Administrator to identify for discussion and possible action Sections 67.30 through 67.35 of the Sunshine Ordinance for the June 2007 meeting agenda, and to note that subsequent sections may be heard if time permits.

9. Administrator's report.

The Administrator submitted the report.

Speaker: Kimo Crossman said that the hours listed on the door of the Administrator's office are 7 AM to 4 PM, and are not legal since they are not in accordance with Administrative code Chapter 16, Article I § 16.4, which says that the City's business hours are 8:30 AM to 5:00 PM. He said that the Administrator should be instructed to forward copies of information when they are received. He urged the Committee to have a discussion regarding private e-mails.

10. Announcements, questions, and future agenda items from Committee members.

Chair Knee informed the Committee that there is a Federal Shield Law Bill that was introduced in the House of Representatives by Rick Boucher (D-Virginia), and Mike Pence (R-Indiana) that has an exception in it that prevents reporters from using a shield law to hide an informant who provided trade secrets. He said that this is a concern for reporters.

DCA Sanchez informed the Members to be careful not to write anything that tries to supersede State law.

Speakers: None

Adjournment The meeting was adjourned at 7:19 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



<http://www.sfgov.org/sunshine>

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1 Dr. Carlton B. Goodlett Place, Room 244
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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Wednesday, June 13, 2007
3:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order
Roll Call
Agenda Changes

1. Approval of minutes of May 9, 2007. (action item) (attachments)
2. Presentation by Joe Lynn, former Ethics Commission member, on suggested improvements to the Sunshine Ordinance and on the history of the Commission's incorporation into the City Charter (discussion) (20 minutes)
3. 05039 Hearing on the status of the January 3, 2006 Order of Determination of Louis Dillon vs. Golden Gate Park Stables Working Group. (discussion and possible action) (attachment)
4. 07018 Hearing on the status of the April 24, 2007 Order of Determination of Peter Warfield vs. Sunshine Ordinance Task Force Administrator and Clerk of the Board of Supervisors. (discussion and possible action) (attachment)
5. 07019 Hearing on the status of the April 24, 2007 Order of Determination of Andrew Sisneros vs. Municipal Transportation Agency-Kirkland Division. (discussion and possible action) (attachment)
6. 07020 Hearing on the status of the May 22, 2007 Order of Determination of Patrick Monette-Shaw vs. Department of Public Health. (discussion and possible action) (attachment)
7. 07021 Hearing on the status of the May 22, 2007 Order of Determination of Kimo Crossman vs. Sunshine Ordinance Task Force Administrator and Clerk of the Board of Supervisors. (discussion and possible action) (attachment)

8. Possible amendments to Sections 67.30 to 67.35 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
- Sec 67.30 The Sunshine Ordinance Task Force.
Sec 67.31 Responsibility for Administration.
Sec 67.32 Provision of Services to other Agencies; Sunshine Required.
Sec 67.33 Department Head Declaration.
Sec 67.34 Willful Failure Shall Be Official Misconduct.
Sec 67.35 Enforcement Provisions.
Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.
Sec 67.37 Severability.
Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.
9. Administrator's report. (attachment)
10. Public comment on items not listed on the agenda. (no action) (no attachment)
11. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)
- Adjournment Next regularly scheduled meeting, Wednesday, July 11, 2007.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to
if a speaker is interrupted by questions, the interruption does not count against his/her time.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

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June 13, 2007
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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE**

MINUTES

**Wednesday, June 13, 2007
3:00 p.m., City Hall, Room 406**

Committee Members: Richard Knee, Chair; Doug Comstock (arrived at 3:17); Erica Craven

Call to Order 3:04 p.m.

Roll Call Present: Knee, Comstock (arrived at 3:17), Craven

Agenda Change Items were heard in the following Order: 1, 4, 5, 2, 3, 10, 6, 7, 8, 9, and 11

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby, Jr.

Approval of minutes of May 9, 2007.

Speakers: None

Motion to approve minutes of May 9, 2007. (Craven / Knee)

Ayes: Knee, Craven

Absent: Comstock

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Presentation by Joe Lynn, former Ethics Commission member, on suggested improvements to the Sunshine Ordinance and on the history of the Commission's incorporation into the City Charter.

Joe Lynn provided a history of the Ethic Commission (EC) and pointed to a number of problems:

Sunshine in San Francisco – documents only

- Bureaucratic hostility – citizen driven.
- Institutional conflict of City Attorney.
- Ethics missing in action – Civil Grand Jury.
- Exorbitant costs to the City, unneeded conflict, lack of transparency.

Mr. Lynn made several suggestions:

Steps to the Future

- Canvas the departments – get an idea of present costs to City.
- Hire Librarian and IT person to review document structures of the City.
- Study costs and benefits of legal privilege assertions – transparency should trump privilege.

Structural reform to assist the bureaucrats

- New agency to replace Ethics in accordance with Civil Grand Jury recommendations
 - i. Institute Citywide document retention and storage policies
 - ii. Production: If no dispute, Sunshine Department provides production assistance to departments. If dispute, agency staff reviews documents and makes the decision – conflicts go to a commission.
- Independent counsel for agency.
- Educate the bureaucrats.

The Committee discussed with Mr. Lynn the makeup of the new agency.

Member Craven said that she isn't certain that having a low-level person from the new agency accessing documents within a department will lessen the bureaucracy, because the same institutional problems will still

exist. She said that her greater interest is how the EC was structured so that it would have subpoena and enforcement powers and how the Sunshine Ordinance body might be structured to have some of the same powers. She said she needs to know the difference between a task force and a commission.

DCA Llorente responded that a task force is a body formed for a specific purpose and ends after that purpose is complete. It doesn't have the long-standing status that a commission has. The powers of a body are determined by the Charter, so the Sunshine Ordinance body would have to become a chartered commission rather than an ordinance task force.

Mr. Lynn responded that the Task Force can ask the Board of Supervisors to appoint it as a "master," which would authorize the Task Force to use the Board's subpoena power.

Member Craven asked Mr. Lynn to provide suggestion, if any, on Article IV of the Ordinance.

Member Comstock asked DCA Llorente if the Task Force could introduce a Charter change without going through the Board. DCA Llorente said that ordinance initiatives require approval of at least four Board members, but he doesn't believe that a Charter amendment may go on the ballot without a majority vote of the Board or a sufficient number of voters' signatures.

Speakers: Louis Dillon said that the Ethics Commission, by not conducting thorough investigations, are not effective or giving the violations that they review "due recognition."

Patrick Monette-Shaw suggested that the Task Force be given subpoena powers from the Board on a trial basis.

05039 Hearing on the status of the January 3, 2006, Order of Determination in re Louis Dillon vs. Golden Gate Park Stables Working Group.

The Administrator informed the Committee that he may have inadvertently failed to notify the Recreation and Parks Department of this hearing.

Chair Knee said that the Committee might need to continue the matter. Member Craven suggested that the Committee hear from Mr. Dillon before continuing the matter.

Speakers: Louis Dillon, Complainant, said the Golden Gate Park Stable Working Group (GGPSWG) had not met since the Order of Determination (OD). He asked the Committee to provide him with a written response saying the Committee has explored all possible avenues on this matter, and that he wants to explore what to do to move forward.

Chair Knee informed Mr. Dillon that since the working group has not met since the OD, there is nothing that can be done since there is no violation.

Member Comstock confirmed that Mr. Dillon received the minutes of the GGPSWG.

Member Craven indicated that the Order of Determination serves as the Task Force's written response.

By Committee consensus, no further action was taken.

07018 Hearing on the status of the April 24, 2007, Order of Determination in re Peter Warfield vs. Sunshine Ordinance Task Force Administrator and Clerk of the Board of Supervisors.

The Administrator informed the Committee that Mr. Warfield called to say that he could not attend the meeting, but that he (the Administrator) was prepared to address the matter.

Chair Knee, by Committee consensus, said that since the matter had been continued once, it would move forward.

Member Craven noted that a revised invoice had been provided to Mr. Warfield and asked Mr. Darby if the invoice had been paid.

Speakers: Frank Darby, Respondent, said the invoice had not been paid, nor was payment received for subsequent invoices for May. He said Mr. Warfield informed him today that he would pay the invoices.

By Committee consensus, no further action was taken.

07019 Hearing on the status of the April 24, 2007, Order of Determination in re Andrew Sisneros vs. Municipal Transportation Agency, Kirkland Division.

The Administrator informed the Committee that Mr. Sisneros called to say he could not attend the meeting, and wasn't certain when he would be able to attend, due to a change in his work schedule. Mr. Sisneros alleged that he did not receive all of the documents and requested a continuance. A Department representative opposed continuance.

Speakers: Ayn Antonio, Respondent, submitted a document signed by Mr. Sisneros acknowledging receipt of the documents.

Member Craven asked if the department had any additional records that had not been provided. Ms. Antonio responded that the department has no additional records that had not been provided.

By Committee consensus, no further action was taken.

07020 Hearing on the status of the May 22, 2007, Order of Determination in re Patrick Monette-Shaw vs. Department of Public Health.

Speakers: Patrick Monette-Shaw, Complainant, said the Department complied with the Order of Determination (OD). He urged the Committee to reject the Department's request for reconsideration of the OD. Larry Funk, Respondent, said the hospital has complied with the OD and requested that the Task Force reverse its ruling because the bodies that are subjects of the complaint, are not passive meeting bodies as defined in the Ordinance. He cited portions of a letter by John Kanaley, and said that the Department will continue to be transparent and comply with open government laws.

Mr. Shaw, in rebuttal, requested that the Committee reject the request to rescind the OD.

Member Craven said she saw no new information that warranted rescinding the OD.

Member Comstock said he believed the bodies are passive meeting bodies and he saw no reason to revisit the matter.

Mr. Funk said the hospital supports the Sunshine Ordinance, and is committed to open government and transparency; he repeated the request for exoneration.

Mr. Shaw said he had to push to get the agenda sent to him, and that the Task Force needed to weigh in on whether the Respondent should post passive meeting notices.

By Committee consensus, no further action was taken.

07021 Hearing on the status of the May 22, 2007, Order of Determination in re Kimo Crossman vs. Sunshine Ordinance Task Force Administrator and Clerk of the Board of Supervisors.

Member Craven said that since the Order Determination indicates that there was no violation, this matter did not need to be agendized.

By Committee consensus, this item was removed from the agenda.

Possible amendments to Sections 67.30 to 67.35 of the Sunshine Ordinance and subsequent sections as time permits.

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine Required.

Sec 67.33 Department Head Declaration.

Sec 67.34 Willful Failure Shall Be Official Misconduct.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.

Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.

Member Comstock expressed concern that the Task Force will not be able to make the deadline to get the proposed amendments on the November ballot.

Member Craven said the thoroughness of the review of the Ordinance by the CAC, coupled with compliance matters that have come before the CAC, contributed to the delay.

Chair Knee said it is important for the full Task Force to weigh in on the amendments and that Task Force members and the Board should be informed that the proposed amendments would not appear on the November ballot.

Member Craven said the main issue that the Task Force needs to discuss is the change from a Task Force to a Commission.

Speakers: Kimo Crossman asked if the Committee had received his e-mailed suggestions. The Committee confirmed receipt of his suggestions.

Administrator's report.

The Administrator made the report.

Speakers: Kimo Crossman said the Administrator uses "tick marks" to track inquiries, which are not acceptable.

Public comment on items not listed on the agenda.

Speakers: None.

Announcements, questions, and future agenda items from Committee members.

Speakers: None.

Adjournment The meeting was adjourned at 5:01 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Wednesday, July 11, 2007
4:00 p.m., City Hall, Room 406

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SAN FRANCISCO
PUBLIC LIBRARY

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pilpel, Bruce Wolfe

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order
Roll Call
Agenda Changes

1. Approval of minutes of June 13, 2007. (action item) (attachments)
2. 07025 Hearing on the status of the June 26, 2007, Order of Determination of John Templeton vs. the Mayor's Office – Historical Preservation Fund Committee. (discussion and possible action) (attachment)
3. 07030 Hearing on the status of the June 26, 2007, Order of Determination of Michael Petrelis vs. the Department of Public Health. (discussion and possible action) (attachment)
4. 07031 Hearing on the status of the June 26, 2007, Order of Determination of Patrick Monette-Shaw vs. the Department of Public Health. (discussion and possible action) (attachment)
5. 07039 Hearing on the status of the June 26, 2007, Order of Determination of Paul Graham vs. the Department of Public Health. (discussion and possible action) (attachment)
6. 07040 Hearing on the status of the June 26, 2007, Order of Determination of Dr. Ahimsha Sumchai vs. Supervisor Sophie Maxwell. (discussion and possible action) (attachment)
7. 07042 Hearing on the status of the June 26, 2007, Order of Determination of Francisco Da Costa vs. Supervisor Sophie Maxwell. (discussion and possible action) (attachment)

8. Possible amendments to Sections 67.30 to 67.35 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
- Sec 67.30 The Sunshine Ordinance Task Force.
Sec 67.31 Responsibility for Administration.
Sec 67.32 Provision of Services to other Agencies; Sunshine Required.
Sec 67.33 Department Head Declaration.
Sec 67.34 Willful Failure Shall Be Official Misconduct.
Sec 67.35 Enforcement Provisions.
Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.
Sec 67.37 Severability.
Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.
9. Administrator's report. (attachment)
10. Public comment on items not listed on the agenda. (no action) (no attachment)
11. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)
- Adjournment Next regularly scheduled meeting, Wednesday, August 8, 2007.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

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|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

A speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

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July 11, 2007

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

Wednesday, July 11, 2007

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock, Vice-Chair; Erica Craven, David Pilpel, Bruce Wolfe
Call to Order 4:02 P.M.

Roll Call Present: Knee, Comstock, Craven, Pilpel

Absent: Wolfe

Agenda Changes: Item #5 was withdrawn from the agenda; item #10 was heard after item #6.

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby, Jr.

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1. Approval of minutes of June 13, 2007.
Speakers: None
 Motion to approve minutes of June 13, 2007. (Comstock / Craven)
Ayes: Knee, Comstock, Craven, Pilpel
Absent: Wolfe

2. 07025 Hearing on the status of the June 26, 2007, Order of Determination of John Templeton vs. the Mayor's Office – Historical Preservation Fund Committee.
Speakers: John Templeton, Complainant, commended the Task Force for its efforts and reported that the matter has been resolved. Rich Hillis, Respondent, said that he has no further comment.
 No action taken.

3. 07030 Hearing on the status of the June 26, 2007, Order of Determination of Michael Petrelis vs. the Department of Public Health.
Speakers: Michael Petrelis, Complainant, said that he described an identifiable record; that Dr. Klausner was not acting as a private citizen. He said that it is hard to believe that Dr. Klausner does not maintain a calendar and that it is not appropriate for the Department to not comply with the Order of Determination.
 Kimo Crossman, said that DPH need to be held accountable. He recommended that Eileen Shields and the department head Dr. Mitchell Katz be found in willful failure and official misconduct. He said that it was wrong for the department to not appear at the meeting.
 Member Pilpel asked Mr. Petrelis if he was willing to narrow his request. Mr. Petrelis said "no." Member Pilpel said that he does not feel that forwarding this matter to another agency is warranted.
 Member Craven moved to refer the matter to the Ethics Commission.
 Member Comstock said that since the department did not state to the full Task Force that they did not have Dr. Klausner's calendars, it is possible that they had them, but they were destroyed.
 DCA Llorente said that since Dr. Klausner isn't the Mayor or department head, his calendar is not required, but if he had a calendar it is a public record subject to disclosure. He said that the recommendation regarding the e-mails is appropriate but that there was nothing that could be done regarding the nonexistent calendar.
 Motion to refer this matter to the full Task Force with a recommendation that the Department of Public Health be found in willful failure and official misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the Task Force on June 26, 2007, by not producing the e-mails of Dr. Jeffrey Klausner during December 2006; that referral, based on that finding, to the Ethics Commission and to another appropriate body be considered. (Craven / Comstock)

Ayes: Knee, Comstock, Craven

Noes: Pilpel

Absent: Wolfe

4. 07031 Hearing on the status of the June 26, 2007, Order of Determination of Patrick Monette-Shaw vs. the Department of Public Health.

Speakers: Patrick Monette-Shaw, Complainant, said that he is not convinced that the digital audio does not exist in a hidden file; that an IT person would know how to retrieve it. He asked that a computer technician be instructed to find the hidden files. Mr. Shaw, also asked that any additional action by the Task Force be in writing without requiring his presence, because he has to take time off from work. Supporter: Francisco Da Costa suggested that departments be given procedures with regards to sunshine. He said that very few people can bring a case before the Task Force, that the process takes too much time, and that complainants are not provided with a clear answers during the adjudication process.

Robert Thomas, Respondent, said that the audio files no longer exist, that the hard drive that was damaged was reformatted and installed in another computer within the agency, but the Department is not certain where.

Mr. Shaw, in rebuttal, urged the Task Force to send a letter to the Department instructing management to train users to back up electronic files on the network drive and not the local drive.

Kimo Crossman said that a knowledgeable IT person should have attended to explain what happened to the hard drive. He said that the recording device has a hidden file and suggested that the Task Force swear people in before they speak.

Member Craven suggested that a letter from the Chair be written asking Laguna Honda to direct appropriate staff to maintain public records on network drives; that appropriate backup mechanisms and not local drives be used. She said the Committee does not need to take any further action.

Member Pilpel asked Mr. Thomas if it's possible that the files exist elsewhere. Mr. Thomas said he didn't know.

Motion that a letter from the Committee be written and directed to the appropriate persons including Robert Thomas, John Kanaley, Larry Funk, Dr. Mitchell Katz and a carbon copy to Eileen Shields, asking them to direct and train appropriate staff to maintain public electronic records on network drives; that appropriate backup mechanisms and not local drives be used. (Pilpel/Craven)

Ayes: Knee, Comstock, Craven, Pilpel

Absent: Wolfe

5. 07039 Hearing on the status of the June 26, 2007, Order of Determination of Paul Graham vs. the Department of Public Health.

Previously withdrawn from the agenda.

6. 07040 Hearing on the status of the June 26, 2007, Order of Determination of Dr. Ahimsha Sumchai vs. Supervisor Sophie Maxwell.

Chair Knee asked the Administrator to contact Supervisor Maxwell's office to ask someone to attend the hearing on this matter. He said public comment would be taken first, until the parties appear.

Public Speakers: Francisco Da Costa said arrangements were not made ahead of time to play to the CD at the meeting and a lot of time was wasted. He urged the Task Force to pay attention to that in the future. He urged the Task Force not to encourage individuals to provide a CD if equipment is not available to play it. Most members did not get a full sense of what took place at the Land Use hearing. He blamed the Administrator for not providing all of the necessary equipment.

Kimo Crossman said it was frustrating not to have the equipment ready at the full Task Force hearing. He recommended that the Task Force swear people in before they give testimony.

Espinola Jackson said she is sad that the City has become so corrupted and money-hungry that it will not sanction anyone for their actions. She said she does not believe the Task Force will sanction the Supervisor for her actions affecting the Bayview community. She said that what is happening in the Bayview community is a crime and that City leaders are looking the other way.

Speakers: Katherine Higgins, Respondent, said the Supervisor is working to ensure a more transparent process, and that the Supervisor has spoken with the Land Use Committee clerk regarding collecting the speaker cards in the order submitted. She said the Supervisor feels that her interruption of a member of the public for speaking on a non-agendized item was appropriate.

Member Pipel asked Ms. Higgins if she could provide a written statement of efforts made by the Supervisor. Ms. Higgins said a written statement would be provided. Member Pipel urged the Supervisor not to disrupt public speakers if they (the public) feel the matter is relevant.

Chair Knee said that the speaker cards are for record-keeping purposes and that speakers may remain anonymous. Member Craven said there is no requirement to call speakers in the order in which the speaker cards were submitted, but that it's more about transparency and giving people a sense of fairness.

No action taken.

7. 07042 Hearing on the status of the June 26, 2007, Order of Determination of Francisco Da Costa vs. Supervisor Sophie Maxwell.

Speaker: Francisco Da Costa, Complainant, said speaker cards were given to the secretary prior to the meeting, but that the Chair chose to allow people that she favors to speak on matters that were not on the agenda, and that this is an injustice to the public. Supporter: Espinola Jackson, said they were at the meeting before anyone arrived, and had turned in their speaker cards, but others were allowed to speak before her.

Katherine Higgins, Respondent, said that as previously indicated the Supervisor is working to ensure a more transparent process, and that a letter will be sent to the Committee.

Mr. Da Costa, in rebuttal, said that he has diligently tried to speak on issues, but have been denied the opportunity to speak publicly, which he feels is racist. He said that in two months he will ask for a recall of the Supervisor.

Kimo Crossman said the Task Force functions as a judge, to serve the public and not City officials, and that it's the Task Force's responsibility to show how public policy is to be developed.

Member Craven suggested that no further action be taken.

Member Pipel agreed with the suggestion and said that if the letter from the Supervisor discloses more information, the matter can be reopened.

No action taken.

8. Possible amendments to Sections 67.30 to 67.35 of the Sunshine Ordinance and subsequent sections as time permits.

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine Required.

Sec 67.33 Department Head Declaration.

Sec 67.34 Willful Failure Shall Be Official Misconduct.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.

Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.

Member Knee, said that members have expressed interest in attending the Police Commission meeting re Josh Wolf, so the meeting will be adjourned at 6:15 PM.

DCA Llorente reported on a prior question regarding subpoena power. He said the Task Force may ask a Supervisor to sponsor an ordinance that would provide subpoena power; otherwise it would be necessary to amend the Charter.

Member Knee asked if the Task Force has the power to place speakers under oath. DCA Llorente said he didn't know. Member Knee asked that DCA Llorente research the matter and report back to the Committee. Member Pilpel said that swearing a person in would not have a binding affect, since there is no penalty.

Member Craven asked about the difference between changing the name of the Task Force to a Commission and changing the Task Force to a Commission. DCA Llorente said that a name change could be done by Charter Amendment or by ordinance. He said that a charter amendment gives the Task Force subpoena power. Member Pilpel, said that the Task Force should focus on powers and duties, which they can only get by a charter amendment. He said that the name change is done by Ordinance through voter initiative.

Member Craven asked what could be gained by a Charter amendment if subpoena power can be provided by ordinance. Member Comstock responded that the Charter gives more power than an ordinance.

Sections 67.30 (a) through (d) were discussed and the Administrator recorded recommended amendments.

Chair Knee asked member Pilpel to inquire from the Youth Commission as to whether they would be interest in participating as an ex-officio member of the Task Force.

Re: Section 67.30 (a-d): Kimo Crossman said the Youth Commission should not sit on the Task Force. He feels that broadening the possible media applicants would benefit the Task Force. He suggested that the Task Force consider adding the ability to get advice from outside attorneys and not just the City Attorney, and that the Supervisor of Public Forum be required to provide an annual report. He said poor attendance by members might be a reason for their removal and that the Task Force should be empowered to get opinions from the state Attorney General.

9. Administrator's report.

The Administrator made the report.

Speakers: Kimo Crossman said he is working with the Administrator to mediate his complaints, but so far it is not going well.

10. Public comment on items not listed on the agenda.

Speakers: Joseph Partansky, said that he attended a conference by the National Academy of Sciences, which had some good discussions regarding making the Library of Congress available to the public. He recommended that the Task Force read a book titled "Full Disclosure: the Perils and Promise of Transparency."

Kimo Crossman said he submitted suggestions regarding the amendments that are not in the packet. He urged the Task Force to send a letter in support of a Californians Aware-sponsored bill on public records reform. He said it is inappropriate for a member of the public to be attacked for exercising his open government rights. He said that a year ago the Task Force urged him to file complaints and now that he does he's being criticized for it.

Espinola Jackson, suggested that persons appearing before the Task Force be sworn in because there are many untruths. She asked if the Task Force is in a position to instruct departments regarding this and inform City officials that they are paid employees of the City.

Francisco Da Costa said those who attend the committee meetings are informed on issues, as Task Force members should be, and that members are biased if they have reached conclusions prior to a meeting. He said people should have an opportunity to provide comment.

11. Announcements, questions, and future agenda items from Committee members.

Speakers: None.

Adjournment The meeting was adjourned at 6:46 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Wednesday, August 8, 2007
4:00 p.m., City Hall, Room 406

DOCUMENTS DEPT.

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pilpel, Bruce Wolfe

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of July 11, 2007. (action item) (attachments)
2. 07031 Progress report regarding steps to prevent loss of data: Order of Determination of Patrick Monette-Shaw v. Department of Public Health. (discussion and possible action item) (attachment)
3. 07040/ Progress report regarding speaker assignment process: Order of Determination of Dr
07042 Ahimsha Sumchai and Francisco Da Costa v. Supervisor Sophie Maxwell.
(discussion and possible action item) (attachment)
4. Possible amendments to Sections 67.30 to 67.35 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)

Sec 67.30 The Sunshine Ordinance Task Force.
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Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.
5. Administrator's report. (attachment)
6. Public comment on items not listed on the agenda. (no action) (no attachment)

7. Announcements, questions, and future agenda items from Committee members.
(discussion item) (no attachment)

Adjournment Next regularly scheduled meeting, Monday, September 10, 2007.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

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|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

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August 8, 2007

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

Wednesday, August 8, 2007
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock, Erica Craven, David Pilpel, Bruce Wolfe

Call to Order 4:07 P.M.

Roll Call

Present: Knee, Comstock, Craven

Absent: Wolfe

Excused: Pilpel

Agenda Changes: None.

Deputy City Attorney: Ernie Llorente

Clerk: Linda Wong

Approval of minutes of July 11, 2007.

Speakers: None

Motion to approve minutes of July 11, 2007. (Comstock/Craven)

Ayes: Knee, Comstock, Craven

Absent: Wolfe

Excused: Pilpel

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07031

Progress report regarding steps to prevent loss of data: Order of Determination of Patrick Monette-Shaw v. Department of Public Health. (discussion and possible action item) (attachment)

Speakers: Patrick Monette-Shaw stated that he did not receive a copy of the response the department sent to Frank Darby. He also stated that according to the CAC minutes of July 11, 2007, a motion was approved that a letter from the Committee be written and directed to the appropriate persons including Robert Thomas, John Kanaley, Larry Fun, Dr. Mitchell Katz and a carbon copy to Eileen Shields, asking them to direct and train appropriate staff to maintain public electronic records on network drives; that appropriate backup mechanisms and not local drives be used. When he received the letter 20 days later, it only indicated that the Committee wishes to know what steps the department would take and no order was given. According to the department's response, there is no mention of any training has been conducted; therefore, this matter remains unsolved.

The chair apologizes for the errors of omission and will send a copy of the letter from the department to Mr. Monette-Shaw.

Member Craven stated that according to the letter from the department, it does state that new employees are advised not to store files on their local drive and users are reminded frequently to always store their files on the server drives. Therefore, employees have been made aware of this problem and have been corrected.

The chair agrees to send a letter to ask the department to provide proof that training has been conducted and to recommend that the department update their records retention schedule policy to state that electronic records need to be backup on the network drive.

07040/07042

Progress report regarding speaker assignment process: Order of Determination of Dr Ahimsha Sumchai and Francisco Da Costa v. Supervisor Sophie Maxwell. (discussion and possible action item) (attachment)

Speakers: None

The chair with the consent of the members continued the item to the next meeting.

Possible amendments to Sections 67.30 to 67.35 of the Sunshine Ordinance and subsequent sections as time permits.

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine Required.

Sec 67.33 Department Head Declaration.

Sec 67.34 Willful Failure Shall Be Official Misconduct.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.

Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.

Speakers: None

The chair reported that he had been informed by an assistant to the Executive Director of New America Media that New America Media wants to retain the nominative power over a seat on the Task Force.

The chair requested Sections 67.30 through 67A.1 to be included in the meeting agenda.

Sections 67.30 (a) through 67.7 were discussed and the clerk recorded recommended amendments.

Administrator's report.

The Administrator submitted his report.

Speaker: Sylvia Johnson spoke on the Administrator's report.

Public comment on items not listed on the agenda.

Speakers: None

Announcements, questions, and future agenda items from Committee members.

Speakers: None

Member Craven stated that she will be out of town from October 5 through October 22 and the full Task Force meeting is scheduled for October 23, 2007. Therefore, she would like to either be excused from that meeting or if the members are available, she would like to have the meeting the first week of October.

The chair requested that this matter be discussed at the next CAC meeting.

The chair indicated that the next CAC meeting has been moved from Wednesday, September 12, 2007 to Monday, September 10, 2007.

Adjournment The meeting was adjourned at 6:06 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Monday, September 10, 2007
4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pilpel, Bruce Wolfe

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of August 8, 2007. (action item) (attachments)
2. 07040 Progress report regarding speaker assignment process: Order of Determination of Dr
& Ahimsha Sumchai and Francisco Da Costa v. Supervisor Sophie Maxwell. (discussion
07042 and possible action item) (attachments)
3. 07055 Hearing on the status of the August 28, 2007, Order of Determination of Kimo
Crossman vs. the District Attorney. (discussion and possible action item) (no attachment)
4. 07057 Hearing on the status of the August 28, 2007, Order of Determination of Jeff Ente vs.
Supervisor Aaron Peskin. (discussion and possible action item) (no attachment)
5. 07059 Hearing on the status of the August 28, 2007, Order of Determination of Paul
Graham vs. the San Francisco Fire Department. (discussion and possible action item) (no attachment)
6. Possible amendments to Sections 67.30 to 67.35 of the Sunshine Ordinance and
subsequent sections as time permits. (discussion and possible action item) (attachment)

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine Required.

Sec 67.33 Department Head Declaration.

Sec 67.34 Willful Failure Shall Be Official Misconduct.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.

Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing
Electrical Devices At and During Public Meetings.

7. Administrator's report. (attachment)
 8. Public comment on items not listed on the agenda. (no action) (no attachment)
 9. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)
- Adjournment Next regularly scheduled meeting, Wednesday, October 10, 2007.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
- SPECIAL MEETING -
AGENDA**

Monday, September 10, 2007
4:00 p.m., City Hall, Room 406

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Note: The September 12, 2007 regular meeting is canceled

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pilpel, Bruce Wolfe

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order;
Roll Call;
Agenda Changes

1. Approval of minutes of August 8, 2007. (action item) (attachment)
2. Discussion re: streaming audio and video possibilities from the City Hall hearing rooms. (discussion) (20 minutes) (no attachment).
3. 07040 Progress report regarding speaker assignment process: Order of Determination of Dr
& Ahimsha Sumchai and Francisco Da Costa v. Supervisor Sophie Maxwell.
07042 (discussion and possible action item) (attachments)
4. 07052 Hearing on the status of the August 28, 2007, Order of Determination of Allen Crossman and Wayne Lanier vs. the San Francisco District Attorney's Office. (discussion and possible action item) (no attachment)
5. 07055 Hearing on the status of the August 28, 2007, Order of Determination of Kimo Grossman vs. the District Attorney. (discussion and possible action item) (no attachment)
6. 07057 Hearing on the status of the August 28, 2007, Order of Determination of Jeff Ente vs. Supervisor Aaron Peskin. (discussion and possible action item) (no attachment)
7. 07059 Hearing on the status of the August 28, 2007, Order of Determination of Paul Graham vs. the San Francisco Fire Department. (discussion and possible action item) (no attachment)

8. Possible amendments to Sections 67.30 to 67.35 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
- Sec 67.30 The Sunshine Ordinance Task Force.
Sec 67.31 Responsibility for Administration.
Sec 67.32 Provision of Services to other Agencies; Sunshine Required.
Sec 67.33 Department Head Declaration.
Sec 67.34 Willful Failure Shall Be Official Misconduct.
Sec 67.35 Enforcement Provisions.
Sec 67.36 Sunshine Ordinance Supersedes Other Local Laws.
Sec 67.37 Severability.
Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.
9. Administrator's report. (attachment)
10. Public comment on items not listed on the agenda. (no action) (no attachment)
11. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)
- Adjournment Next regularly scheduled meeting, Wednesday, October 10, 2007.

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MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

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|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

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September 10, 2007

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE**

- Special Meeting -

MINUTES

Monday, September 10, 2007

4:00 p.m., City Hall, Room 406

Note: The September 12, 2007 regular meeting is canceled.

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pilpel

Bruce Wolfe

Call to Order 4:02 P.M.

Roll Call Present: Knee, Comstock, Craven, Pilpel (arrived at 4:18)

Excused: Wolfe

Agenda Changes: Items were heard in the following order: 1, 2, 6, 10, 3 – 5, 7 – 9, and 11.

Deputy City Attorney: Rosa Sanchez

Administrator: Frank Darby

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1. Approval of minutes of August 8, 2007.

Speakers: Allen Grossman said that he did not believe that the notice requirement for this special meeting was met, and therefore the meeting should not continue. He said that he had asked Linda Wong for Order of Determination letters in August, but did not receive them until Friday, September 7.

Chair Knee said that verbal notice of today's meeting was given during the last two CAC and Task Force meetings.

Motion to approve minutes of July 11, 2007. (Comstock / Craven)

Ayes: Knee, Comstock, Craven

Absent: Pilpel

Excused: Wolfe

2. Discussion re streaming audio and video possibilities from the City Hall hearing rooms.

Rohan Lane, City Hall Media Services, gave an overview of the current service and reported that Media Services is experimenting with audio recording on personal computers, which can be done at minimal cost. He said that he was not clear on the Task Force's expectations.

Member Craven said the Task Force is exploring the feasibility of digital recording and its cost. Mr. Lane responded that rooms 250, 263, 400, and 416 could record audio and video, but that room 406 and 408 accommodate audio recording only. He said the cost would depend on the type of recording required.

Chair Knee asked if it is possible to provide live streaming? Mr. Lane responded live streaming was not available at this time, and that SFGTV would need to be consulted. He estimated the cost to be approximately \$30-40K annually to provide the service.

Member Comstock said there appear to be three options: audio only, audio and video, and video only. Mr. Lane agreed and said he could give a presentation at the next CAC meeting.

Speakers: Kim Crossman suggested that the clerk use portable digital recorders immediately, that the City get a quote on the cost of streaming audio-video, and that the Task Force send a group to San Jose to look at that city's system.

No action taken.

- 3.

07040 & Progress report regarding speaker assignment process: Order of Determination in re Dr. Ahimsha Sumchai and
07042 Francisco Da Costa vs. Chair Sophie Maxwell of the Board of Supervisors' Land Use & Economic Development Committee.

Member Comstock recused himself.

The Administrator reported that Dr. Sumchai said she could not attend today's hearing.

Speakers: Jon Lau, aide to Supervisor Maxwell, said the Supervisor complies with all requirements of the Ordinance with regard to public speakers. He said that if there is an overall need affecting the entire Board, he would gladly convey the message.

Chair Knee asked if Supervisor Maxwell had developed written guidelines. Mr. Lau responded that he was not aware of any.

Kimo Crossman suggested that the matter be continued because Mr. Lau is not knowledgeable on the matter, that Supervisor Maxwell's office be held accountable to its commitment, and that a written response from her office be requested.

Chair Knee reminded Mr. Lau that Sunshine Ordinance Section 67.21(e) requires that respondents be knowledgeable.

Continued without objection.

4. 07052 Hearing on the status of the August 28, 2007, Order of Determination in re Allen Grossman and Wayne Lanier vs. the San Francisco District Attorney's Office.

Speakers: Allen Grossman, Complainant, said that he is convinced that the DA has no formal written procedure regarding the backup and storage of electronic records. He said that the GRM Information Management Services purchase order refers to paper documents and not electronic records. Paul Henderson and Sandip Patel, Respondents, said they don't have a written policy and that to address the issue on timeliness, the DA has hired a full-time person to respond to requests.

Mr. Grossman in rebuttal said he agrees that there is no written policy but there is something that may be retained with the DA's information technology department; that the DA hasn't addressed what is being implemented.

Member Pipel asked for the name of the DA's IT manager and whether the complainants were notified that there were not responsive records. Mr. Henderson responded that Voltaire Almendrala is the IT manager, and said the Complainants were notified. Mr. Patel said there is a policy in the contract, which the DA does not have.

Chair Knee asked if the DA couldn't provide a copy of the contract to the Complainants. Mr. Patel responded that the DA does not have the contract, but pursuant to the Ordinance referred them to the appropriate agency.

Member Comstock said that although there is some progress and effort by the DA to rectify the problem, problems remain, and the DA should write a policy and report back to the Committee.

Mr. Patel asked what they should prepare for the next meeting. Member Craven cited the language in the Order of Determination.

Mr. Patel said that pursuant to California Government Code Section 6252 (e) and Sunshine Ordinance Section 67.21(L), the DA's position is that the office is not required to create a policy and that a policy will be created at a later date.

Member Pipel asked the Complainants what could be done to satisfy the request. Mr. Grossman responded that the DA does not have to create a policy to satisfy his request; that the GRM purchase order refers only to hard copy. Mr. Lanier responded that he would like to see the contract and have a commitment from the DA to create a policy. Mr. Henderson responded that he would try to find the section in the contract and provide it to the complainants.

Member Pipel identified three specifics: 1) that the Task Force receive a copy of the correspondence that went to the Complainants, 2) a copy of the GRM contract regarding electronic document storage, and 3) a policy from the DA governing the backup and storage of electronic records.

Member Craven cited Sections 67.29-1 and 67.29-7 and said that the DA is required to preserve records in accordance with their retention schedule and believes that the DA should attempt to create a written policy.

Public speaker: Kimo Crossman said the Order of Determination (OD) does not give a 5-day response time to the Department, as it should. He said that if the DA does not comply with the OD, the matter should be referred to the Ethics Commission; that the DA should provide a written policy.

Chair Knee, in accordance with Committee consensus, said he will write to the DA, asking the office to describe its retention policy, how employees are informed of the policy and how the policy is implemented.

Continued without objection.

The Chair declared a 5-minute recess.

5. 07055 Hearing on the status of the August 28, 2007, Order of Determination in re Kimo Crossman vs. the District Attorney
- Speakers: Kimo Crossman, Complainant, said the DA is difficult to work with, and asked that the Order of Determination (OD) require that the office provide a written response to the OD in 5 days. He asked that any request for reconsideration be denied. Sandip Patel, Respondent, said a description of the policy was provided to Mr Crossman and that the office is in compliance with the OD. Mr. Crossman, in rebuttal, said he assumed that since the DA did not mention a request for reconsideration of the OD, it had been withdrawn.
- Member Craven said that under Section 67.21 (e) of the Ordinance, the 5-day requirement language applies if there is something for the Respondent to do. She said she doesn't see any need for further action.
- Member Pipel said the Order of Determination needs to be submitted more promptly, so that parties have more time to review it prior to the meeting.
- Mr. Henderson rescinded the DA's request for reconsideration of the OD.
- No action taken.

6. 07057 Hearing on the status of the August 28, 2007, Order of Determination in re Jeff Ente vs. Supervisor Aaron Peskin.
- Member Comstock recused himself.
- Speakers: Jeff Ente, Complainant, said he did not receive any new update or information. Supervisor Peskin's aide David Noyola, Respondent, said that the office has responded fully to the request and has no responsive records.
- Mr. Ente, in rebuttal, said Supervisor Peskin's statement suggested that there were more than two e-mails, and he wants to know how to reconcile the statement. He said that what's in the records is not consistent with his statement.
- Member Pipel asked if representatives of Department of Telecommunications and Information Services and the Information Technology Manager were present.
- The Administrator responded that he is the department's IT Manager and said that DTIS maintains and backs up the e-mail server daily. He said the IT staff provides only administrative support for departmental staffs' e-mail. He said e-mails are kept on the server and not on individual drives. He said it is possible for staff to archive e-mails to the local drive, though it is not a common practice.
- Member Pipel suggested that the Department explore turning over to the Clerk of the Board any records pertaining to Board legislation for retention and maintenance. Mr. Noyola responded that he would explore that possibility.
- Member Craven asked Mr. Noyola to also explore methods and options for complying with the COB's current retention policy.
- Chair Knee asked if an attempt was made to retrieve the deleted e-mail. Mr. Noyola responded no. Chair Knee suggested he ask DTIS to attempt a recovery of the e-mails, and to develop written procedures to comply with Section 67.29 of the Ordinance.
- Member Craven said DTIS should be required to search for certain e-mails with the word "parrot" between certain dates.
- Member Pipel suggested that the matter be continued.
- Public speakers: Kimo Crossman that Mr. Darby should be responsible for retrieving the e-mail, not the Board president, since he is the IT Manager, and should work on a process for preserving e-mails. He said the COB's policy of printing e-mail for presentation is not a good policy; that a representative of DTIS should have attended and that a letter should be sent to them.
- Wayne Lanier said Supervisor Peskin is responsible for the care of the electronic records; that a request was made to DTIS but there was no response.
- Michael Reed said Supervisor Peskin indicated at the Board meeting that other Supervisors had received similar e-mails, so a request could be made to other Board members' offices.

Member Craven asked Mr. Ente about the timeframe for the records being requested so that DTIS could be provided the search parameters. Mr. Ente responded that the matter was introduced April 10 and the statement was made June 5.

Motion authorizing Chair Knee to write a letter to Supervisor Peskin's office asking him to instruct DTIS to retrieve and produce e-mails between April 10 through June 5, containing the word "parrot" and to develop written policies regarding the retention of correspondence pertaining to legislation, and to report back at the next meeting. (Craven / Pilpel)

Ayes: Knee, Craven, Pilpel

Recused: Comstock

Excused: Wolfe

Member Craven, suggested that the Clerk of the Board and DTIS be carbon copied in the letter, without objection.

Continued, without objection.

7. 07059

Hearing on the status of the August 28, 2007, Order of Determination of Paul Graham vs. the San Francisco Fire Department.

Speakers: Rhab Boughn, Respondent, said that since he did not attend the prior meeting he needed an explanation of the violation determined by the Task Force; that he needed to know what records the Department needed to provide. He said certain records are not disclosable under the federal Health Information Portability and Accountability Act; that certain information requested by Mr. Graham could not be extracted without violating HIPAA, specifically the payment information. He said Mr. Graham was provided a list of dispatches to the address, the amount that is charged, and a 6-month summary of the ambulance billing. He suggested that other forms of billing statements, which might be helpful, are the monthly payment by date of service, monthly aging reports, and a 6-month summary that goes back to July 2004.

Member Craven informed Mr. Boughn that HIPAA was not applicable and did not preclude disclosure. She said the main request was for billing information pertaining to the cost of the Fire Department visits to the facility and how much had been compensated or returned to the Department. She asked Mr. Boughn to speak with the third-party billing company to find out if a report can be generated with the address without any information that identifies the patient, and then provide the aggregate amount billed for services to the center and the aggregate amount collected to date for those services.

Member Pilpel asked to see the spreadsheet of dispatches containing redacted information. Mr. Boughn said that he did not have it with him. Member Pilpel said there were five bits of information that he believes Mr. Graham was looking for: 1) the start date, 2) the end date for the 6-month period, 3) the total number of incidents, 4) the aggregate billed amount, and 5) the aggregate amount of funds received.

Mr. Boughn said he will research and see what information can be abstracted.

Public speaker: Kim Crossman, said HIPAA doesn't apply to public records, only federal records; that the California Supreme Court ruled that employee salaries are not exempt from disclosure because the public's expense overruled the privacy provisions in the CPRA. He said Peter Warfield is to be represented against the library on a similar matter regarding information on repetitive stress injuries. He said private interest has to be balanced with public interest.

Chair Knee noted that the Complainant was absent.

Note: After the meeting the Administrator retrieved a voice message from Mr. Graham, who indicated that he just became aware of the meeting and could not attend.

Continued without objection.

Chair Knee informed Members that DCA Sanchez had to leave and asked if they wanted to discuss item #8 in her absence. Member Craven asked to be excused from the October meeting and said she will submit her comments on the provisions that will be considered for inclusion in the packet. She said that she is prepared to discuss item #8. Member Pilpel said he was prepared to discuss item #8.

8.

Possible amendments to Sections 67.30 to 67.35 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine Required.

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Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.

Member Craven said the CAC has already discussed Sections 67.30-67.33 so they can begin with Sections 67.34

Member Pilpel asked to start discussions on Section 67.32 since he was not present at the last meeting.

Member Knee, by consensus, started the discussion on Section 67.32.

Speakers: None

Section 67.32 was discussed and the Administrator recorded recommended amendments.

9. Administrator's report.

The Administrator made the report

Member Craven asked the Administrator ensure that the telephone is tested and working properly for the anonymous person prior to the next regular meeting of the full Task Force, and to consider meeting in another room where there is a working 2-way telephone.

Chair Knee asked the Administrator to schedule discussion Patrick Monette-Shaw's Order of Determination status at the next CAC meeting. Member Comstock responded that he has scheduling it for the September 25 full Task Force meeting. Chair Knee said there will be no need to schedule it for the CAC if it is resolved at the full Task Force.

Speakers: None

10. Public comment on items not listed on the agenda.

Public speakers: Kim Crossman said that the special CAC meeting was not in order since it was not noticed in the newspaper.

Chair Knee asked the Administrator if notice of the meeting was placed in the newspaper. The Administrator said that notice was not placed in the newspaper; that notice was placed on the Task Force website, the Library and on the bulletin board outside the meeting room.

Member Pilpel said notice in the newspaper is not required.

DCA Sanchez said DCA Llorente researched the matter thoroughly and informed her that the meeting was properly noticed.

Allen Grossman said today's CAC meeting was not intended to be a special meeting. He doesn't believe adequate notice was given and if the City Attorney has a formal opinion, he wants to see it.

11. Announcements, questions and future agenda items from CAC members.

Member Pilpel reminded members that a discussion is to be agendized at the full Task Force meeting regarding the name of the Task Force and to include any research from DCA Llorente. He said the Alioto-Pier legislation was also continued.

Member Comstock said he met with Clerk of the Board Angela Calvillo and saw the notice for the Task Force Executive Secretary, and it will take a month to go through the list of applicants. He said there will be a committee of three that includes himself, a representative of HRC and a third person named Clift who will screen them and then submit names to Angela Calvillo for interviews. He said it would take about 6 weeks for the selection and start-up process.

Adjournment The meeting was adjourned at 8:17 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

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Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Wednesday, October 10, 2007
4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of September 10, 2007. (action item) (attachment)
2. 07040 Progress report regarding speaker assignment process: Order of Determination of Dr
& Ahimsha Sumchai and Francisco Da Costa v. Supervisor Sophie Maxwell.
07042 (discussion and possible action item) (attachments)
3. 07052 Continued hearing on the status of the August 28, 2007, Order of Determination of
Allen Grossman and Wayne Lanier vs. the San Francisco District Attorney's Office.
(discussion and possible action item) (no attachment)
4. 07057 Continued hearing on the status of the August 28, 2007, Order of Determination of
Jeff Ente vs. Supervisor Aaron Peskin. (discussion and possible action item) (no
attachment)
5. 07059 Continued hearing on the status of the August 28, 2007, Order of Determination of
Paul Graham vs. the San Francisco Fire Department. (discussion and possible
action item) (no attachment)
6. 07061 Hearing on the status of the September 25, 2007, Order of Determination of Peter
& Warfield, for the Library Users Association vs. the San Francisco Public Library.
07062 (discussion and possible action item) (no attachment)
7. Possible amendments to Sections 67.30 to 67A.1 of the Sunshine Ordinance and
subsequent sections as time permits. (discussion and possible action item) (attachment)
Sec 67.30 The Sunshine Ordinance Task Force.
Sec 67.31 Responsibility for Administration.
Sec 67.32 Provision of Services to other Agencies; Sunshine Required.
Sec 67.33 Department Head Declaration.

Sec 67.34 Willful Failure Shall Be Official Misconduct.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.

Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing
Electrical Devices At and During Public Meetings.

8. Administrator's report. (attachment)
9. Public comment on items not listed on the agenda. (no action) (no attachment)
10. Announcements, questions, and future agenda items from Committee members.
(discussion item) (no attachment)

Adjournment Next regularly scheduled meeting, Wednesday, November 14, 2007.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to
if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code from the Internet, at URL:
http://www.sfgov.org/site/sunshine_page.asp?id=34495

October 10, 2007

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

Wednesday, October 10, 2007

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pilpel
Bruce Wolfe, Harrison Sheppard

Call to Order 4:15 P.M.

Roll Call Present: Knee, Comstock, Pilpel, Sheppard

Absent: Wolfe

Excused: Craven

Agenda Changes: Items were heard in the following order: 1, 3, 9, 4, 5, 6, 8, 10, 2, 7

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

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1. Approval of minutes of September 10, 2007.
 Speakers: None
 Motion to approve minutes of September 10, 2007. (Comstock / Pilpel)
 Ayes: Knee, Comstock, Pilpel
 Absent: Wolfe
 Excused: Craven

2. 07040 & 07042 Progress report regarding speaker assignment process: Order of Determination of Dr Ahimsha Surchai and Francisco Da Costa v. Supervisor Sophie Maxwell.
 Neither the Complainants nor Respondents were present.
 Continued, without objection.

3. 07052 Continued hearing on the status of the August 28, 2007, Order of Determination of Allen Grossman and Wayne Lanier vs. the San Francisco District Attorney's Office.
 Speakers: Complainants: Wayne Lanier, said he did not receive the records he had requested, and that the department should be found in willful failure. Allen Grossman said he did not receive anything pertaining to the original request.
 Respondents: Sandip Patel said the department is completely responsive to the records request, and that the Complainants were informed that the department has no written policy regarding backup and storage of electronic records. Paul Henderson said they could address the Complainants' specific request.
 Allen Grossman, in rebuttal, said he had received a copy of a purchase order, which referenced a contract with GRM. However, there is no policy or procedure regarding the backup and storage of electronic records.
 Member Pilpel asked Mr. Patel if he had a copy of the GRM contract. Mr. Patel responded that they did not have a copy of the contract but referred Mr. Grossman to the Office of Contract Administration (OCA).
 Member Comstock asked if the DA has a written records retention policy.
 Member Sheppard asked in all fairness if the Task Force has a records retention schedule and policy Administrator Darby responded yes. Member Sheppard asked for a copy.
 Chair Knee asked the Administrator to provide a copy of the Task Force's Records Retention Schedule and Policy to Member Sheppard.

Member Pilpel asked Mr. Grossman if he has a copy of the GRM contract. Mr. Grossman responded yes, that he received a copy from OCA, but it doesn't identify anything regarding electronic records.

Mr. Henderson said he provided Mr. Grossman with copies of purchase orders for the past 6 years. Member Pilpel asked Mr. Henderson to forward a copy of the latest purchase order to the Task Force. Mr. Henderson said he would.

Member Sheppard said that the since the DA has no written policy, he feels the office has fully responded to the request.

Chair Knee asked the Respondents who sets the policy for storage and backup of electronic records? Mr. Patel responded the IT manager. Chair Knee asked how staff are informed of the policy. Mr. Henderson responded that staff are not informed because backup and storage of e-records are not done by staff but are routinely handled by IT. Mr. Patel said it seems the Task Force is on a fishing expedition, and has veered from the original request.

Member Pilpel asked Mr. Grossman what his desired outcome was. Mr. Grossman responded that he wanted to understand the DA's electronic records system.

Member Sheppard asked Mr. Lanier if having a written electronic records policy from the DA would satisfy his request. Mr. Lanier responded yes. Member Sheppard suggested that a second letter be written asking the DA to provide a written electronic records policy.

Motion to recommend that the Chair of the Task Force write a letter to the District Attorney advising that, in the absence of any written policy on the retention, backup and retrieval of electronic records, the Task Force strongly recommends that such a policy be formulated and propagated throughout the Office of the District Attorney so that future request for relevant records will not take excessive time of the District Attorney or the Task Force. (Knee / Pilpel)

Member Comstock said the DA has a responsibility to provide records, and that the Complainants are performing a public service and are not harassing the DA. He said the Task Force is not on a fishing expedition, but that it's the Task Force's charge to ensure compliance with the Ordinance.

Ayes: Knee, Comstock, Pilpel

Absent: Wolfe

Excused: Craven

Chair Knee stated he was informed that Member Pilpel will need to leave at 6 PM which will result in the lose of a quorum.

Member Pilpel asked if there is anything more that needs to be done regarding compliance. Chair Knee said that there is nothing further that can be done on the compliance issue other than write the letter.

No further action taken.

4. 07057 Continued hearing on the status of the August 28, 2007, Order of Determination of Jeff Ente vs. Supervisor Aaron Peskin.

Chair Knee informed Committee Members that member Comstock is recused from this item, and therefore they do not have a quorum to proceed. He informed Mr. Ente that this matter will be continued to the November 14, 2007, meeting.

Speakers: Jeff Ente, Complainant, asked if there was any word as to whether a representative of Supervisor Peskin's office will attend.

Chair Knee said the Committee has not heard from the Supervisor's office, and apologized for the inconvenience.

Member Pilpel asked that the matter be continued, and that the Administrator request the Supervisor or his representative to attend.

Continued, without objection.

5. 07059 Continued hearing on the status of the August 28, 2007, Order of Determination of Paul Graham vs. the San Francisco Fire Department.

Speakers: Paul Graham, Complainant, thanked the Task Force for continuing the hearing at last month's meeting. He said he has not heard from the Fire Department.

Rhab Boughn, Respondent, said he has a document to give to Mr. Graham that he feels will satisfy his request. Mr. Graham was handed the document.

Mr. Graham, in rebuttal, said that because of the vagueness of the document, he is not certain whether it completely satisfies his request, and that he would need to consult with others.

Member Pipel asked Mr. Boughn to explain the document. Mr. Boughn responded that the document shows the amount of funds requested and received for two separate periods of time.

Member Pipel asked Mr. Graham if the explanation provided helped to remove some of the vagueness and satisfies his request. Mr. Graham responded that much of vagueness has been removed and that the information identified on the document may satisfy his request.

No further action taken.

6. 07061 & 07062 Hearing on the status of the September 25, 2007, Order of Determination of Peter Warfield, for the Library Users Association vs. the San Francisco Public Library (Library).

Speakers: Peter Warfield, Complainant, read a portion of the response letter submitted by the Library and said that the department refuses to provide the donor information as instructed in the Order of Determination.

Speakers in support of the Complainant: Allen Grossman said the Library is asserting that the City Attorney's advice trumps the Order of Determination and state law, and show's disrespect for the process. He said he couldn't see how advice from the City Attorney could be followed without a legal opinion. Wayne Lanier said the Library is saying that the Task Force lacks the authority to enforce its ruling.

Sue Blackman, Respondent, said the Library is complying with the advice from the City Attorney (CA) and Section 67.29-6 of the Ordinance.

Mr. Warfield, in rebuttal, said that 67.29-6 does not mean that only the name is to be provided, and that redacting contact information does not allow for verification of the donor.

Member Sheppard said he agrees that the Task force needs to assert itself so that others can't circumvent its decisions. He said he favors the Library's position to not disclose the donor information, but does not agree with basing its stance on oral advice from the City Attorney. He said the CA should be asked to respond to the Task Force.

Member Comstock asked DCA Llorente if the Task Force could request an opinion from the City Attorney. DCA Llorente responded that the Task Force can make the request of a party to the complaint, but that the complainant can ask the Supervisor of Records to provide a written legislative opinion on which it based its oral advice.

Member Pipel asked if the Library's only dispute is with the disclosure of the home addresses, telephone numbers of donors, and posting of grants on their website. Ms. Blackman responded yes.

Member Pipel suggested that a follow-up letter be written asking the Library to provide specific rulings, court cases, etc. as the bases for not disclosing the donor information rather than the advice from the CA.

Sue Blackman responded that the Library's decision was not based strictly on the CA's advice, but on its own policy, the Ordinance and its understanding of the law, and that the Library had already cited some cases in its September 19, 2007, letter to the Task Force.

Chair Knee said he would write a letter to the Library, as Member Pipel suggested, asking them to support their position by citing the law and relevant cases.

DCA Llorente said Sections 67.29-6, and 67.1 (g) of the Ordinance support the Library's position by not requiring disclosure of the home addresses of the donors, and allows for privacy rights.

Continued, without objection.

7. Possible amendments to Sections 67.30 to 67A.1 of the Sunshine Ordinance and subsequent sections as time permits.
Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine Required.

Sec 67.33 Department Head Declaration.

Sec 67.34 Willful Failure Shall Be Official Misconduct.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.

Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.

Continued, without objection.

8. Administrator's report.

The Administrator made the report

Speakers: None

9. Public comment on items not listed on the agenda.

Speakers: Louis Dillon said the Task Force lacks "teeth" to enforce the Ordinance. He urged the Task Force to find ways to obtain the authority to enforce the Ordinance.

Allen Grossman said he will propose procedural changes to the Task Force that would give complainants the opportunity to correct the record after respondents have been questioned by the Task Force.

Peter Warfield said he agrees with Mr. Grossman that complainants should be allowed to respond to statements made by respondents. He thanked the Task Force for sticking up for the public, and indicted that the agenda for item #3 through 6 says that there are no attachments, but that there are attachments for those items.

Chair Knee apologized for the error on the agenda.

10. Announcements, questions and future agenda items from CAC members.

Speakers: None

Member Comstock asked DCA Llorente if he can remove Member Wolfe from the Committee today? DCA Llorente said he could, but that they still could not continue the meeting, and that a quorum would still require three out of four members. Member Comstock said that he would leave things as they are.

Member Sheppard asked if it would be appropriate to have a discussion regarding conflicts with the advice from the City Attorney to various agencies regarding Orders of Determination with the committee or the full Task Force. Chair Knee responded "The full Task Force."

Chair Knee, moved to adjourn. Without objection.

Adjournment: The meeting was adjourned at 6:02 p.m.

Next regular meeting: Wednesday, November 14, 2007

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force


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Board of Supervisors

Sunshine Ordinance Task Force

November 14, 2007

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE

Wednesday, November 14, 2007
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of October 10, 2007. (action item) (attachment)
2. 07040 & 07042 Progress report regarding speaker assignment process: June 26, 2007 Order of Determination of Dr Ahimsha Sumchai and Francisco Da Costa v. Supervisor Sophie Maxwell. (discussion and possible action item) (attachment)
3. 07057 Continued hearing on the status of the August 28, 2007, Order of Determination of Jeff Ente vs. Supervisor Aaron Peskin. (discussion and possible action item) (attachment)
4. 07061 & 07062 Hearing on the status of the September 25, 2007, Order of Determination of Peter Warfield, for the Library Users Association vs. the San Francisco Public Library. (discussion and possible action item) (attachment)
5. 06034 Request for reconsideration of the January 23, 2007 Order of Determination of Jason Garza vs. Department of Public Health – SF General Hospital. (discussion and possible action item) (attachment)
6. 07056 Hearing on the status of the October 23, 2007, Order of Determination of Myrna Lim against the Ethics Commission. (discussion and possible action item) (attachment)
7. 07060 Hearing on the status of the October 23, 2007, Order of Determination of Alex Clark against the Public Utilities Commission. (discussion and possible action item) (attachment)
8. 07068 Hearing on the status of the October 23, 2007, Order of Determination of Maxine Doogan against the District Attorney. (discussion and possible action item) (attachment)
9. 07073 Hearing on the status of the October 23, 2007, Order of Determination of by Russell Albano against the Department of Human Resources – Workers Compensation Division. (discussion and possible action item) (attachment)
10. 07074 Hearing on the status of the October 23, 2007, Motion of Russell Albano against the Fire Department. (discussion and possible action item) (attachment)
11. Possible amendments to Sections 67.30 to 67A.1 of the

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Sunshine Ordinance and subsequent sections as time permits.
(discussion and possible action item) (attachment)

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine
Required.

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Pagers and Similar Sound-Producing Electrical
Devices At and During Public Meetings.

12. Administrator's report. (attachment)
13. Public comment on items not listed on the agenda. (no action)
(no attachment)
14. Announcements, questions, and future agenda items from
Committee members. (discussion item) (no attachment)

Adjournment Next regularly scheduled meeting, Wednesday, December 12, 2007.

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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1. Complainant presents his/her facts and evidence 5 minutes

Other parties of Complainant presents facts & evidence Up to 3 minutes each

2. City responds 5 minutes

Other parties of City respond Up to 3 minutes each

Above total speaking time for Complainant and City to be the same

3. Complainant presents rebuttal 3 minutes

4. Public comment Up to 3 minutes each

(Excluding Complainant & City response, witnesses)

5. Matter is with the Task Force for discussion and deliberation

6. Vote by Task Force

Note: Time must be adhered to

If a speaker is interrupted by questions, the interruption does not count against his/her time.

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November 14, 2007

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SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE

MINUTES

Wednesday, November 14, 2007

4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock, Vice-Chair; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard (ex-officio non-voting)

Call to Order 4:00 P.M.

Roll Call Present: Knee, Comstock, Craven, Pilpel, Wolfe (arrived at 4:28), Sheppard

Agenda Changes: Item #13 was heard after item #4

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

At Member Pilpel's suggestion, the Committee consensed that the parties' testimony should be reduced from 5 to 3 minutes.

At Member Comstock's suggestion, the Committee consensed that Members' questioning should be limited to 10 minutes.

1. Approval of minutes of October 10, 2007.
Speakers: Allen Grossman asked the Committee to make some wording changes to his statement on item #6.
Peter Warfield said item #6 should be amended to include the listing of grants on the website as another area of difference.
Motion to approve minutes of October 10, 2007, as amended. (Pilpel / Comstock)
Ayes: Knee, Comstock, Craven, Pilpel
Absent: Wolfe

2. 07040 & 07042 Progress report regarding speaker assignment process: June 26, 2007, Order of Determination in re Dr. Ahimsha Sumchai and Francisco Da Costa vs. Supervisor Sophie Maxwell.
Member Comstock recused himself.
Chair Knee noted that no representative of Supervisor Maxwell's Office was present.
Speakers: Dr. Ahimsha Sumchai said Supervisor Maxwell is not in compliance with the Order of Determination and that at the October 29, 2007, meeting of the Board of Supervisors Land Use Committee, the supervisor delayed public comment on an item for four hours. She said she felt that the matter was personal.
Member Craven said the matter indicated by Dr. Sumchai is different from that in the Order of Determination and suggested Dr. Sumchai file a new complaint.
Member Pilpel suggested the matter be continued.
Member Craven suggested the matter not be continued.
Member Wolfe agreed that the matter should not be continued but expressed concern that representatives of departments are not attending.
Peter Warfield said 67.21(e) requires that a representative of the department attend the meeting.
Jason Garza said a representative of the department is required to attend.
No action taken.

3. 07057 Continued hearing on the status of the August 28, 2007, Order of Determination in re Jeff Ente vs. Supervisor Aaron Peskin.
- Member Comstock recused himself.
- Chair Knee noted that no representative of Supervisor Peskin's Office was present.
- Speakers: Jeff Ente, Complainant, said his main request was to see the e-mails for advocacy for the legislation that was passed, and not recovery of e-mails.
- Jason Garza said that not attending today's Committee meeting is official misconduct and the rules should be followed.
- Peter Warfield, said Section 67.21(e) does not say the department head must attend, but that an authorized representative of the department must attend.
- Member Craven suggested a follow-up letter be sent to Supervisor Peskin, with the October 4, 2007, e-mail from Chair Knee attached, expressing concern that no one has appeared before the body to address the issues and there is no confirmation that the directive to search the backup and archived e-mails was met. She said Supervisor Peskin's office should be asked again to conduct the search and to provide the results prior to the next CAC meeting; that if the office continues to fail to show that the search has been done and/or fail to appear, the matter will be referred to the full Task Force for recommendation of finding of willful failure and failure to comply with the OD.
- Member Sheppard also suggested that a letter be written to the Board of Supervisors.
- Member Pipel agreed that a formal letter on Task Force letterhead stationery be written. He asked DCA Llorente to search for a prior memo from the City Attorney to the Clerk of the Board, from 8 years ago, regarding retention of e-mails on legislative matters.
- Member Craven said the retention of legislative files is governed by departments' Records Retention Schedule.
- DCA Llorente said he is not averse to doing research, but not for the purpose of satisfying a person's curiosity. He said that requests should be relevant to the matter at hand.
- Motion authorizing the chair to send a formal letter to Supervisor Peskin as follow-up on this matter as outlined by Member Craven. (Pipel/Wolfe)
- Ayes: Knee, Craven, Pipel, Wolfe
- Recused: Comstock
- Continued without objection.
4. 07061 & 07062 Hearing on the status of the September 25, 2007, Order of Determination in re Peter Warfield, for the Library Users Association, vs. the San Francisco Public Library.
- Speakers: Peter Warfield, Complainant, read a portion of the response letter submitted by the Library, and said nothing has changed and that the department refuses to provide certain information on donors. He urged the Committee to take appropriate action. Allen Grossman, in support, said the Committee should refer the matter to the Task Force for further action since the Library refuses to comply with the Order of Determination.
- Sue Blackman, Respondent, said the Library has provided written legal justification for withholding and is in compliance with Section 67.29-6 of the Ordinance.
- Mr. Warfield, in rebuttal, said the Library should send someone who can speak to the legal issues, and urged the Committee to forward the matter to the full Task Force for further action.
- Member Craven said the Library has complied with the OD in all respects except providing the home addresses, for which there is no reasonable expectation of privacy under the circumstances.
- Member Sheppard said he believes that there is an expectation of privacy, and that something has to be done when there is a difference of opinion between the City Attorney and the Task Force.
- Member Wolfe said the donor information should be disclosed, and that disclosure is important for the preservation of information.

Member Pilpel said he does not believe donors have an expectation that their home addresses will be disclosed.

Member Knee said he received an opinion from Terry Francke of Californians Aware that in applying the "balancing act" the Library must prove there is an expectation of privacy.

Motion to refer the item to the Task Force with a recommendation that the Library be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the Task Force on September 25, 2007; that referral, based on that finding, to the District Attorney, Attorney General, the Board of Supervisors, and Ethics Commission be considered. (Comstock/Craven)

Ayes: Knee, Comstock, Craven, Wolfe

Noes: Pilpel

5. 06034 Request for reconsideration of the January 23, 2007, Order of Determination in re Jason Garza vs. Department of Public Health – San Francisco General Hospital

Member Knee informed Mr. Garza that for a matter to be reconsidered, new information must be introduced and the matter must be brought before the full Task Force.

Mr. Garza said he has a court ruling that provides new evidence and he requests that the Task Force reconsider his complaint.

Chair Knee, by consensus of the Committee, referred the matter to the full Task Force for reconsideration at the November 27, 2007, meeting.

6. 07056 Hearing on the status of the October 23, 2007, Order of Determination in re Myrna Lim against the Ethics Commission.

Member Comstock recused himself.

Speakers: Myrna Lim, Complainant, asked the Task Force to use all of its power to obtain compliance with the Order of Determination (OD). She said she needs the Task Force's help to clear her name.

John St. Croix, Respondent, provided a 6-page letter, which he referenced, explaining why the Ethics Commission (EC) will not comply with the OD. He said complying with the OD would be a violation of the law.

Ms. Lim, in rebuttal, said that what is presented is nothing new. She said the EC abuses its power, investigates persons without their knowledge, and disparages their names.

Ms. Johnson, said "forgive me for bringing up something different on the earlier matter"... inaudible.

DCA Llorente said the CAC's role is not to rehear the complaint but to ascertain compliance.

Member Craven said the law allows only partial withholding and that the issues stated by Mr. St. Croix were raised at the full Task Force meeting.

Member Pilpel asked if Mr. St. Croix wanted the Task Force to reconsider the OD. Mr. St. Croix said, yes.

Member Pilpel asked Ms. Lim if she brought her concerns about the EC's procedures to the attention of the EC. Ms. Lim said, no. He urged her to inform the EC.

Member Sheppard suggested the matter be referred back to the Task Force.

Motion to refer the item to the Task Force for reconsideration of the Order of Determination as requested by the Ethics Commission and with a recommendation that the Ethics Commission be found in willful misconduct for failure to comply with the Sunshine Ordinance and with the Order of Determination issued by the full Task Force on October 23, 2007; that referral, based on that finding, to the District Attorney, Attorney General, and the Board of Supervisor be considered. (Wolfe/Craven)

Ayes: Knee, Craven, Wolfe

Noes: Pilpel

Recused: Comstock

7. 07060

Hearing on the status of the October 23, 2007, Order of Determination in re Alex Clark against the San Francisco Public Utilities Commission (PUC).

Member Craven recused herself.

Speakers: Diane Parker, Responent, said that after conducting another search the PUC was able to find 26 additional pages, which it provided to Mr. Clark, and that it has no additional records to provide.

Member Wolfe said he feels that the matter can be tabled.

Chair Knee said he is concerned that Mr. Clark might not be satisfied. He urged the department to continue to work with Mr. Clark to provide him with additional requested records.

Motion to table, without objection. (Wolfe/Comstock)

8. 07068

Hearing on the status of the October 23, 2007, Order of Determination in re Maxine Doogan against the District Attorney.

Speakers: Maxine Doogan, Complainant, said the District Attorney provided what appear to be copies of all of the contracts she requested, which she will need to have audited. She said it does not appear to show where money went, monthly reports, and board members who attended.

Sandip Patel, Respondent, said the DA's office has provided all responsive documents in its possession. He said the office referred Ms. Doogan to departments that may have the additional records that she is requesting.

Ms. Doogan, in rebuttal, said the documents show only disbursements and not monies received.

Public comment: Robin Fumes, said disclosure from the DA is not forthcoming; that it is not clear where money is going and who is attending the First Offenders Prostitution Program. He urged the Task Force not to drop the matter.

Member Craven said she doesn't understand why it took the DA's office so long to provide the records but is glad it did. She said the Task Force does not have authority to reprimand the DA.

Mr. Patel, in response to member Craven's question, said monies collected are received by the DA and disbursed in support of the programs.

Member Wolfe asked if contracts are filed with the Controller's office. Mr. Patel responded, yes.

Member Sheppard said it does not appear that there is a question of the documents provided, but rather the ethics of how the DA is spending the funds.

Member Pilpel urged Ms. Doogan to contact SAGE directly for the roster of its board of directors, the Controller's office for additional copies of financial or contractual information, and the Board of Supervisors to schedule a discussion regarding ethics issues.

Motion to table, without objection. (Pilpel/Comstock)

9. 07073

Hearing on the status of the October 23, 2007, Order of Determination in re Russell Albano against the Department of Human Resources – Workers Compensation Division.

Speakers: Russell Albano, Complainant, said he did not receive a response from the department.

Robin Masuda, Respondent, said the department has complied with the Order of Determination and has provided Mr. Albano with copies of requested documents except attorney-client privileged information. She said Mr. Albano and the department were represented by legal counsel.

Mr. Albano, in rebuttal, said legal counsel represented him in a prior matter; that he is seeking information that justifies altering his work status and not relating to the two cases.

Public comment: Ms. Johnson's comments were inaudible.

Member Craven asked Ms. Masuda if only attorney-client privileged information between Workers Compensation and the City Attorney were withheld. Ms. Masuda responded, yes. Member Craven said no further action was needed.

Member Wolfe said documents become privileged only when there is litigation. He moved to table the item. The motion failed for lack of a second.

No further action taken.

10. 07074

Hearing on the status of the October 23, 2007, Order of Determination in re Russell Albano against the Fire Department.

Speakers: Russell Albano, Complainant, said he did not receive any correspondence from the Department. Rhab Boughn, Respondent, handed a document to Mr. Albano and the Committee, which he said has General Order information sought by Mr. Albano. He said other attorney-client privileged information was not provided.

Mr. Albano, in rebuttal, said he wished he had received the information before today so he could have time to review it.

Public comment: Ms. Johnson's comments were inaudible.

Member Craven asked Mr. Albano if there were any records requested that he did not have. Mr. Albano said, no.

No further action taken.

11.

Possible amendments to Sections 67.30 to 67A.1 of the Sunshine Ordinance and subsequent sections as time permits.

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine Required.

Sec 67.33 Department Head Declaration.

Sec 67.34 Willful Failure Shall Be Official Misconduct.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.

Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.

Member Craven suggested that a special meeting be held in January, 2008, to finalize the CAC's portion of the amendments. Without objection.

Continued, without objection.

12.

Administrator's report.

The Administrator made the report

Public speakers: Ms. Johnson's comments were inaudible.

13.

Public comment on items not listed on the agenda.

Public Speakers:

- Kimo Crossman, expressed concern that departments are rearguing their complaints at the CAC; that it is inappropriate to introduce new arguments after a determination has been made. He urged the committee to focus on compliance.
- Myrna Lim asked to have her item heard before item number 5.
- Ms. Johnson's comments were inaudible.
- Allen Grossman said that according to Section 67.21(f) the City Attorney (CA) could not advise departments to deny access to public records. He said that as he is an attorney, the CA's opinion is no better than his, and that it is not appropriate to use the CA as a hammer or as a legal defense for non-compliance.

- Peter Warfield said departments should appear at hearings. He said that with regard to donor information, an address should go with a name.
- Jason Grant Garza said the CA should not help departments deny access to records.

14.

Announcements, questions and future agenda items from CAC members.

Speakers: None

Adjournment: The meeting was adjourned at 7:40 p.m.

An audio recording of this meeting is on file in the Sunshine Ordinance Task Force office.


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Board of Supervisors

Sunshine Ordinance Task Force

December 12, 2007

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE

AGENDA

Wednesday, December 12, 2007

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pipel, Bruce Wolfe, Harrison Sheppard

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of November 14, 2007. (action item) (attachment)
2. 07057 Continued hearing on the status of the August 28, 2007, Order of Determination of Jeff Ente vs. Supervisor Aaron Peskin. (discussion and possible action item) (attachment)
3. 07075 Hearing on the status of the November 27, 2007, Order of Determination of Laura Carroll against the Mayor's Office. (discussion and possible action item) (attachment)
4. 07077 Hearing on the status of the November 27, 2007, Order of Determination of Allen Grossman against the Office of the District Attorney. (discussion and possible action item) (attachment)
5. 07080 a, b, & c Hearing on the status of the November 27, 2007, Order of Determination of Dan Boreen against the Fire Department. (discussion and possible action item) (attachment)
6. Possible amendments to Sections 67.30 to 67A.1 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine Required.

Sec 67.33 Department Head Declaration.

Sec 67.34 Willful Failure Shall Be Official Misconduct.

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Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.

Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones,
Pagers and Similar Sound-Producing Electrical
Devices At and During Public Meetings.

7. Administrator's report. (attachment)
8. Public comment on items not listed on the agenda. (no action)
(no attachment)
9. Announcements, questions, and future agenda items from
Committee members. (discussion item) (no attachment)

Adjournment Next regularly scheduled meeting, Wednesday, January 9, 2007.

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

1. Complainant presents his/her facts and evidence 5 minutes

Other parties of Complainant presents facts & evidence Up to 3 minutes each

2. City responds 5 minutes

Other parties of City respond Up to 3 minutes each

Above total speaking time for Complainant and City to be the same

3. Complainant presents rebuttal 3 minutes

4. Public comment Up to 3 minutes each

(Excluding Complainant & City response, witnesses)

5. Matter is with the Task Force for discussion and deliberation

6. Vote by Task Force

Note: Time must be adhered to

If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate

these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Administrator by mail to: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854; or by email at sotf@sfgov.org.

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http://www.sfgov.org/site/sunshine_page.asp?id=34495

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

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SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA

DEC 11 2007

Wednesday, December 12, 2007
4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard

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Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of November 14, 2007. (action item) (attachment)
2. 07057 Continued hearing on the status of the August 28, 2007, Order of Determination of Jeff Ente vs. Supervisor Aaron Peskin. (discussion and possible action item) (attachment)
3. 07077 Hearing on the status of the November 27, 2007, Order of Determination of Allen Grossman against the Office of the District Attorney. (discussion and possible action item) (attachment)
4. 07080 Hearing on the status of the November 27, 2007, Order of Determination of Dan a, b, & Boreen against the Fire Department. (discussion and possible action item) c (attachment)
5. Possible amendments to Sections 67.30 to 67A.1 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
 - Sec 67.30 The Sunshine Ordinance Task Force.
 - Sec 67.31 Responsibility for Administration.
 - Sec 67.32 Provision of Services to other Agencies; Sunshine Required.
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 - Sec 67.34 Willful Failure Shall Be Official Misconduct.
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 - Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.

6. Administrator's report. (attachment)
7. Public comment on items not listed on the agenda. (no action) (no attachment)
8. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)

Adjournment Next regularly scheduled meeting, Wednesday, January 9, 2007.

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MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

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December 12, 2007

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SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
DRAFT MINUTES

Wednesday, December 12, 2007

4:00 p.m., City Hall, Room 406

SAN FRANCISCO
PUBLIC LIBRARY**Committee Members:** Richard Knee, Chair; Doug Comstock, Vice-Chair; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard (ex-officio, non-voting)**Call to Order 4:00 P.M.****Roll Call Present:** Knee, Comstock, Craven, Pilpel, Wolfe (in at 4:47 out at 6:32), Sheppard**Agenda Changes:** Item #7 was heard after item #3**Deputy City Attorney:** Ernie Llorente**Administrator:** Frank Darby

1. Approval of minutes of November 14, 2007.
Speakers: Kimo Crossman said that the meeting packet was not available until after 12 PM yesterday.
Motion to approve minutes of November 14, 2007, as amended. (Comstock / Craven)
Ayes: Knee, Comstock, Craven, Pilpel
Absent: Wolfe
2. 07057 Continued hearing on the status of the August 28, 2007, Order of Determination of Jeff Ente vs. Supervisor Aaron Peskin.
Member Comstock recused himself.
Chair Knee noted that no representative of Supervisor Peskin's Office was present.
Speakers: Jeff Ente, Complainant, said that he is concerned about the lack of progress; that the matter would be resolved if he was informed that the search had been done and no e-mails existed.
Public Comment: Kimo Crossman commended the Task Force on the Order of Determination. He said the Administrator could answer questions regarding retrieval of e-mail.
Members Sheppard and Pilpel expressed concerned about the lack of attendance by Supervisor Peskin or one of his representatives.
Member Sheppard asked if there was an informal way to obtain a response from Supervisor Peskin without a formal process. DCA Llorente, expressed concern about having ex-parte communications.
Motion to refer the item to the Task Force with a recommendation that Supervisor Peskin be found in official misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on August 28, 2007; that referral, based on that finding, to the Ethics Commission, District Attorney, Board of Supervisor, and/or the state Attorney General be considered.
(Craven/Knee)
Ayes: Knee, Craven, Pilpel
Recused: Comstock
Absent: Wolfe
3. 07077 Hearing on the status of the November 27, 2007, Order of Determination of Allen Grossman vs. the Office of the District Attorney.
Speakers: Allen Grossman, Complainant, said he is looking for logs that show the backup of electronic data, but he did not receive anything.

Sandip Patel, DA Representative, said he has nothing to add to what was provided at the full Task Force meeting. Mr. Grossman, in rebuttal, said the DA's office has provided no indication as to whether it has the logs.

Public Comment: Kim Crossman said Mr. Grossman is looking for logs that show what e-records are being stored. He recommended that the DA be found in willful failure.

Member Sheppard confirmed with Mr. Patel that the DA does not have a log, but rather a database, and that providing the information requested would be a breach of security.

Member Craven confirmed with Mr. Grossman that he is seeking logs showing when e-data was shipped to storage.

Mr. Patel in response to Member Craven said the DA has no documents showing tapes that were sent to storage, because the task is routine.

Member Pipel confirmed with Mr. Patel that no one is signing for the container.

Member Craven said Mr. Grossman is not looking for the database.

Member Sheppard said the DA has no responsive documents.

Member Wolfe confirmed with Mr. Patel that the information technology staff prepares the tapes for shipment to storage.

Member Comstock asked Mr. Grossman if he would be satisfied with a totally redacted document. Mr. Grossman said, no.

Motion to refer the item to the Task Force with a recommendation that the Office of the District Attorney be found in official misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on November 27, 2007; that referral, based on that finding, to the Ethics Commission, Board of Supervisors, and/or the state Attorney General be considered. (Pipel / Wolfe)

Ayes: Knee, Comstock, Pipel, Wolfe

Noes: Craven

4. 07080a Hearing on the status of the November 27, 2007, Order of Determination of Dan Boreen vs. the Fire Department (SFFD).

Speakers: Dan Boreen, Complainant, said there has been no disclosure.

Rhab Boughn, SFFD Representative, said there is no clear procedure used regarding redactions; that the department is seeking advice from the City Attorney (CA) before complying with the Order of Determination.

Mr. Boreen, in rebuttal, said he supports privacy rights of individuals, but this is about City-paid benefits.

Public Comment: Kim Crossman said a balancing test has to be performed; that a specific exemption is required, pursuant to 67.27, but was not provided.

Allen Grossman said that since the public is allowed gross-salary information then the City- paid benefits data also should be available.

Member Craven said that HIPAA, FMLA, or ADA does not apply to the SFFD in this matter. She said paid-leave information is not exempt from disclosure.

Member Sheppard said it seems valid that the SFFD is waiting for advice from the CA before disclosure.

Member Pipel confirmed with Mr. Boreen that he is requesting a redacted time log.

Motion to continue. The Fire Department is instructed to obtain the legal advice that they are seeking and submit a written response to the CAC by Monday, December 31, 2007. (Craven / Pipel)

Ayes: Knee, Comstock, Craven, Pipel

Excused: Wolfe

- 07080b Speaker: Dan Boreen, Complainant, asked the Members to not be misled by the presence of the officials.

Rhab Boughn, SFFD representative, said the records were provided to Mr. Boreen, and that some information was redacted as per Section 67.29-5 of the Ordinance.

Fire Chief Joanne Hayes-White said she keeps a daily calendar and that she redacted non-City business from the calendar before making it available to Mr. Boreen.

Mr. Boreen, in rebuttal, said citing Section 67.29-5 of the Ordinance is a general statement

Public Comment: Kimo Crossman said there is no expressed legal provision for private meetings with City officials

Member Sheppard asked Mr. Boreen to explain the basis for his statement that redactions before and after a public meeting is inappropriate. Mr. Boreen responded that the redactions are of individuals who attended the meeting. Chief Hayes-White, responded that information redacted was of a personal nature and to protect the identity of persons with whom she met to discuss their medical issues. She said she also redacted the names of persons who took vacation.

Member Craven said there must be a specific, expressed exemption to redact the calendar, that the issue is that there was no explanation of what was redacted. She said the names of staff who took vacation are not redactable. She suggested that Chief Hayes-White review the calendar for information that can be disclosed.

Chief Hayes-White, in response to Member Pilpel, explained the type of information that was redacted. In response to Member Wolfe, she said she received verbal advice from the City Attorney regarding the redactions.

Member Comstock asked Mr. Boreen if it would satisfy him if future redactions were explained. Mr. Boreen said, yes.

Motion to take no action. (Comstock)

Motion to table to allow the SFFD to finish reviewing its policies and procedures and to address concerns expressed by the Committee. When policies and procedures are committed to writing, the Department is asked to submit a copy to the Task Force for review. (Craven / Wolfe) Without objection.

Chief Hayes-White said the Department is in full compliance with the Ordinance and asked the Members to convey, in writing, what their concerns are so that the department can better respond.

07080c

Speaker: Dan Boreen, Complainant, said the blank calendar speaks for itself. He said the Deputy Chief is responsible for maintaining a calendar, and that the

City Attorney is advising the Department not to comply.

Rhab Boughn, SFFD representative, said documents were provided as requested, and that the Deputy Chief is not required to maintain a calendar in the same fashion as the Department Head.

Gary Massetani, Deputy Chief, apologized for the information previously provided to Mr. Boreen. He said he used a non-City calendar to maintain his appointments, to which his secretary did not have access. He provided a copy of his personal calendar to Mr. Boreen and said he redacted personal information including staff vacations.

Chair Knee, declared a 5-minute recess to allow Mr. Boreen to review the document.

Mr. Boreen, in rebuttal, said he stands on his complaint; that providing the calendar now proves information was withheld.

Public Comment: Kimo Crossman said he is glad the calendar was provided, but that private information is not redactable. He said justification for withholding is required.

Member Pilpel confirmed with Mr. Massetani that the calendar information was on his personal PDA, which was not accessible to the secretary.

Member Wolfe confirmed with Mr. Boughn that complaints/requests for records are routed to him.

Member Craven said the Calendar is a public record even when maintained on another office computer.

Motion to table. The Department is to respond to concerns expressed by the Committee regarding its policies and procedures; that a revision to the Department's policy be promulgated and be submitted to the Task Force for review. (Craven) Without objection.

07080d

Speaker: Dan Boreen, Complainant, said the documents received were not provided in timely fashion, and that there is not explanation as to why the time rolls are not signed.

Rhab Boughn, SFFD representative, said the Department did respond in timely fashion in providing unsigned time roles, but that they do not have signed time rolls.

Motion to take no further action. (Craven) Without objection.

5. Possible amendments to Sections 67.30 to 67A.1 of the Sunshine Ordinance and subsequent sections as time permits.

Sec 67.30 The Sunshine Ordinance Task Force.

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Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.

Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.

Public Comment re Section 67.30: Kimo Crossman recommended that the criteria for serving in Seat 4 be broadened; that there be an alternating appointment schedule so all Task Force Members' appointments don't come up at the same time.

Allen Grossman suggested that the word "violations" be removed from subsection (d); clarify reference to "its" in subsection (e); delete "or other existing local ordinances" in subsection (f); in subsection (g) changing the vote requirement of Members to 7; and expressed concern about allowing the Board to amend the law as indicated subsection (i).

Motion to remove the word "above" from Section 67.30 (i). (Craven / Comstock) [from line 1, pg 46 of the packet.]

Ayes: Knee, Comstock, Craven

Noes: Pipel

Excused: Wolfe

Re: Section 67.33: Kimo Crossman suggested that the annual training be in person and not via video or online.

Member Pipel to provide language that addresses the annual training, including the format and content of the training. This section to be agendized for the next meeting.

Re: Section 67.34: Kimo Crossman suggested language that empowers the Task Force to have an item agendized on the Board of Supervisors calendar to explain why departments or persons are being referred.

Sections 67.30, 33, and 34 were discussed and the Administrator recorded recommended amendments.

Sections 67.33, 67.35, 67.36, 67.37 and 67A.1 to be agendized for the meeting on January 9, 2008.

6. Administrator's report.

The Administrator made the report

Public Speakers: Kimo Crossman said he has problems with the Administrator responding to his request for information regarding his complaints

Dan Boreen said the work of the Administrator can be overwhelming, but that an acknowledgement or receipt is sufficient.

Member Pipel asked how complaints would be agendized for January 8, 2008.

Chair Knee said the Complaint Committee meeting has been canceled and the Task Force will meet as a committee of the whole to determine jurisdiction of new complaints. Then referrals and complaints from the November and December 2007 meetings will be heard.

7. Public comment on items not listed on the agenda.

Public Speakers:

- Kimo Crossman said there is precedent for vendors who are doing business with the City to provide records. He said the DA should bring its IT person for item #3, to provide the whole picture
- Allen Grossman said the Deputy City Attorney said at the Board of Supervisors Rules Committee that the Task Force is not a chartered body, and therefore he asked the Task Force to reconsider its voting process.
- Dan Boreen said that it is important for the CAC to stand firm on the ODs.

8. Announcements, questions and future agenda items from CAC members.

Speakers: Kimo Crossman urged the Task Force to agendize a discussion regarding Sunshine Week

Adjournment: The meeting was adjourned at 8:03 p.m.

An audio-recording of this meeting is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE**

AGENDA

Wednesday, January 9, 2008
4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock, Vice-Chair; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard

Notes: (1) Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. (2) Public comment on items not listed on the agenda (Agenda Item 6) will be taken at 5:00 p.m. or as soon thereafter as proceedings permit.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of December 12, 2007, regular meeting. (action item) (attachment)
 2. 07075 Hearing on the status of the November 27, 2007, Order of Determination of Laura Carroll vs. the Mayor's Office of Housing. (discussion and possible action item) (attachment)
 3. 07080a Continued hearing on the status of the November 27, 2007, Order of Determination of Dan Boreen vs. the Fire Department. (discussion and possible action item) (attachment)
 4. Possible amendments to Sections 67.33, and 67.35 to 67A.1 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)

Sec 67.33 Department Head Declaration.
Sec 67.35 Enforcement Provisions.
Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.
Sec 67.37 Severability.
Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.
 5. Administrator's report. (attachment)
 6. Public comment on items not listed on the agenda. (no action) (no attachment)
 7. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)
- Adjournment Next regularly scheduled meeting, Wednesday, February 13, 2008.

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Administrator by mail to: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854; or by email at SOTF@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from the Administrator or by printing Chapter 67 of the San Francisco Administrative Code from the Internet, at URL: http://www.sfgov.org/site/sunshine_page.asp?id=34495

January 9, 2008

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

Wednesday, January 9, 2008

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock Vice-Chair; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard (ex-officio, non-voting)

Call to Order 4:04 P.M.

Roll Call Present: Knee, Comstock, Craven, Pilpel, Sheppard (out at 6:15)

Excused: Wolfe

Agenda Changes: Item #6 was heard after item #3

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

Chris Rustom

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1. Approval of minutes of December 12, 2007.
Public Comment: None
Motion to approve minutes of December 12, 2007, as amended. (Comstock / Craven)
Ayes: Knee, Comstock, Craven, Pilpel
Excused: Wolfe
Member Craven said that she will draft, for circulation to the members, a letter for submittal to the SF Fire Department that conveys the Task Force's concerns regarding calendars and the redaction of calendars, and to provide relevant case law.
Member Comstock asked that a copy be provided to him and the Administrator for inclusion in the Task Force's Annual Report.
2. 07075 Hearing on the status of the November 27, 2007, Order of Determination of Laura Carroll against the Mayor's Office of Housing (MOH).
Speakers: Laura Carroll, Complainant, said the MOH continues to violate Sections 67.26, and 67.27. She said there are still outstanding documents. Dee Modglin, in support of the complainant, said she received documents from MOH that were not provided to Ms. Carroll.
Douglas Shoemaker, MOH representative, said all responsive documents requested by Ms. Carroll have been provided to her.
Ms. Carroll, in rebuttal, said she did not receive the list of documents that were withheld as privileged.
Public Comment: Kimo Crossman recommended that the matter be continued because the MOH did not identify the records withheld.
Member Pilpel disclosed that he spoke with Ms. Carroll regarding obtaining an opinion from the Supervisor of Records, and can be fair and impartial
Ms. Carroll, in response to Member Pilpel, said the outstanding requests are for 1) list of properties by first purchase, 2) documents regarding proposed changes to codes, and 3) policy and procedures manual and capital improvement policy.
Mr. Shoemaker, in response to Member Pilpel, said he does not have a list of properties by first purchase, and will check on the other two requests mentioned by Ms. Carroll.
Member Sheppard said the MOH has been forthright regarding the status of records.

Member Craven said she disapproves of the City Attorney's policy advising the departments that oral advice will be provided because written communications are subject to public records laws.

Motion to continue. (Comstock / Pilpel) Without objection.

3. 07080a

Continued hearing on the status of the November 27, 2007, Order of Determination of Dan Boreen against the Fire Department.

Speakers: Dan Boreen, Complainant, said the documents have not been provided and asked for a ruling for willful failure to comply.

Rhab Boughn, SFFD representative, said the pay type scales policy is in draft form and still under review. He said the department does not have a standing policy.

Mr. Boreen in Rebuttal said the Task Force's ruling was that the information is to be disclosed.

Public Comment: Kimo Crossman recommended that a letter be sent to the city attorney who advised the department instructing him/her to attend the next meeting.

Member Craven said she is inclined to continue the matter to allow time for the department to establish a policy. She said she doesn't see a willful violation.

Member Sheppard said he is concerned about the absence of a citywide policy. He said the Task Force should find out who in the City Attorney's office is drafting the policy.

Member Pilpel urged the parties to attempt to resolve the pay type issue.

Member Comstock informed Mr. Boreen that he can petition the Supervisor of Records for an opinion as to whether the pay types are public record per Section 67.21 (d).

Chair Knee said that consideration should the balancing test per Prop 59.

Motion to continue. (Comstock / Craven) Without objection.

4.

Possible amendments to Sections 67.33 and 67.35 to 67A.1 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)

Sec 67.33 Department Head Declaration.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.

Sec 67.37 Severability.

Sec 67A.1 Prohibiting the Use of Cell Phones, Pagers and Similar Sound-Producing Electrical Devices At and During Public Meetings.

Member Pilpel said he is stilling working on language for Section 67.33 and that the two issues are 1) who files the declaration, and 2) who is subject to the sunshine and ethics training.

Chair Knee, by consensus of the committee, asked Member Pilpel to provide proposed language in writing for review and discussion by the committee.

Public Comment re Section 67.33: Kimo Crossman urged that a written proposal be provided for public review. Dan Boreen suggested that there be two layers of training. He said it should be clear who besides the Department Head must take the training.

Member Comstock introduced possible language for Section 67.35. He said he wanted to consolidate all enforcement provisions.

Public Comment re Section 67.35: Kimo Crossman said there should be at least two additional meetings to discuss this matter. He suggested that Allen Grossman and Terry Francke be consulted. He said a reference to Government Code Section 1222 is missing; that there should be fines for destruction of records.

Dan Boreen suggested that additional meetings be scheduled for discussion. He urged members to review AA343 and AA344 to consider charter language.

Member Sheppard said he is concerned about due process requirements and suggested that the City Attorney review the language and provide an analysis.

Member Craven said an analysis is needed as to whether the Task Force may enforce such a provision, and whether a fine, or criminal or civil penalties may be imposed.

Member Pipel said he doesn't believe an analysis is needed at this point. He received clarification that section (a) of Member Comstock's proposed language referred to those who are ignorantly violating the law, and section (b) applies to Orders of Determination that are not complied with.

Member Craven said enforcement should provide more guidance and direction.

Public Comment re Section 67.36: Kimo Crossman suggested that the first sentence be changed to say "other local laws and the Charter."

Public Comment re Section 67.37: None

Public Comment re Section 67A.1: Kimo Crossman urged the Committee to leave the language as is.

Members Craven and Pipel said this section is not part of the Sunshine Ordinance, and was added by the Board of Supervisors in 2000. They suggested that the language remain as is.

Motion to add Section 67A.1 to the Sunshine Ordinance as new Section 67.14A, (Comstock) Motion failed for lack of a second.

Sections 67.33, 67.35 through 67.37 and 67A.1 were discussed and the Administrator recorded recommended amendments.

Chair Knee asked the Administrator to agendize all Sections in Article 4 for discussion at the February 13, 2008, meeting.

5. Administrator's report.

The Administrator made the report.

Public Comment: Kimo Crossman asked the Task Force to agendize a discussion regarding the duties of the Administrator to make certain that things are improved.

Doug Comstock said that the discussion regarding whether to retain the Complaint committee will be held in February.

6. Public comment on items not listed on the agenda.

Public Speakers: Kimo Crossman asked the CAC to reagendize Section 67.24 (a)(2) for discussion. He said he is also concerned that there are no penalties for the destruction of records.

Dan Boreen, asked about the procedure to recalendar tabled items (07080b and 07080c).

Member Craven explained the procedure. She said the CAC will reschedule the matter after it receives the policy from the SF Fire Department as requested.

7. Announcements, questions and future agenda items from CAC members.

Member Pipel confirmed that the Supervisor of Records' report will be heard in February. He suggested that there be a discussion at the full Task Force regarding staff duties. He said he doesn't know if there is a document that lays out in general terms what Mr. Darby and Mr. Rustom do.

Speakers: None

Adjournment: The meeting was adjourned at 6:56 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Wednesday, February 13, 2008
4:00 p.m., City Hall, Room 406

DOCUMENTS DEPT.

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Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order
Roll Call
Agenda Changes

1. Approval of minutes of January 9, 2008. (action item) (attachment)
2. 07075 Continued hearing on the status of the November 27, 2007, Order of Determination of Laura Carroll against the Mayor's Office of Housing. (discussion and possible action item) (attachment)
3. 07080a Continued hearing on the status of the November 27, 2007, Order of Determination of Dan Boreen against the Fire Department. (discussion and possible action item) (attachment)
4. 07097 Hearing on the status of the January 22, 2008, Order of Determination of Steve Lawrence against the Public Utilities Commission. (discussion and possible action item) (attachment)
5. Possible amendments to Sections 67.30 to 67.37 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)

Sec 67.30 The Sunshine Ordinance Task Force.
Sec 67.31 Responsibility for Administration.
Sec 67.32 Provision of Services to other Agencies; Sunshine Required.
Sec 67.33 Department Head Declaration.
Sec 67.34 Willful Failure Shall Be Official Misconduct.
Sec 67.35 Enforcement Provisions.
Sec 67.36 Sunshine Ordinance Supercedes Other Local Laws.
Sec 67.37 Severability.

6. Administrator's report. (attachment)
7. Public comment on items not listed on the agenda. (no action) (no attachment)
8. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)

Adjournment Next regularly scheduled meeting, Wednesday, March 12, 2007.

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant presents facts & evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to

If a speaker is interrupted by questions, the interruption does not count against his/her time.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

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February 13, 2008

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

Wednesday, February 13, 2008

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pilpel

Bruce Wolfe, Harrison Sheppard

Call to Order 4:08 P.M.

Roll Call Present: Knee, Comstock, Craven, Pilpel, Wolfe, Sheppard (ex-officio, non voting)

Agenda Changes: Item #1 was heard after item #6 and 7 after 4

Deputy City Attorney: Ernie Llorente

Clerk: Chris Rustom

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Chair Knee noted that Member Sheppard was an ex-officio/non-voting member and welcomed his opinions and suggestions. Mr Sheppard said he represents the interests of the Sunshine Ordinance and the Compliance and Amendments Committee.

1. Approval of minutes of January 9, 2008.

Public Comment: None

Motion to continue minutes of January 9, 2008 because Mr. Kimo Crossman's comments need clarification.
(Comstock / Wolfe)

2. 07075 Hearing on the status of the November 27, 2007, Order of Determination of Laura Carroll against the Mayor's Office of Housing (MOH).

Continued to March 12, 2008, at request of complainant.

3. 07080a Continued hearing on the status of the November 27, 2007, Order of Determination of Dan Boreen against the Fire Department.

Speakers: Dan Boreen, complainant, said there had been no positive outcome in his case and renewed his request to have it forwarded to the Task Force for determination on willful failure to comply. The department, he said, is still waiting for legal guidance from the City Attorney's Office (CAO), which means city attorneys are violating the Sunshine Ordinance by providing advice on how not to comply.

Rhab Boughn, SFFD Representative, said he has not heard from the CAO. He also said Mr. Boreen was initially given documents in which the pay code types were redacted but only a select few were marked the second time around.

In rebuttal, Mr. Boreen said Mr. Boughn by his own statement made it very clear that the department was waiting for the CAO's advice. He said the department and all city attorneys assisting the department, including DCAs Katherine Porter and Gina Rocanova, should be found in willful failure. It's prima facie willful failure, he said.

Public Comment: None

Member Craven, on Point of Order, wanted to know why the matter was before the committee again because the panel agreed at its last meeting to recall the case after the department had produced its policy.

Clerk Rustom, through Chair Knee said Administrator Darby, had prepared and compiled the agenda and had planned to attend the meeting but was called away to attend a Board of Supervisors Budget Committee meeting.

On Chair Knee's questioning, Mr. Boughn said he doesn't know when the written guidelines will be available but the deputy city attorney indicates that she has a heavy workload.

Chair Knee recommended the matter be continued to the next regular meeting with file numbers items 07080a, b and c to be placed on the agenda regardless of whether there is any guideline produced by that time.

Motion to continue. Without objection (Knee)

4 07097

Hearing on the status of the January 22, 2008, Order of Determination of Steve Lawrence against the Public Utilities Commission.

Member Craven recused.

Diana Parker, sunshine request coordinator for the PUC, said she has responded to all of Mr. Lawrence's requests.

Mr. Llorente, noting that the PUC was not timely in its initial response, reminded the committee that the question was what more does the department has to do since all requested documents had been provided

Public comment: None.

Member Pilpel suggested the committee take no action.

Member Wolfe wanted to know why this item was on the agenda and if a member had requested it?

Public comment reopened: Member Craven said the chair should review the agenda to see if the document was appropriately calendared since it was at the discretion of the Chair.

Chair Knee found no further action necessary since the complainant was not present and because there was no further action mentioned in the Order of Determination.

5.

Possible amendments to Sections 67.30 to 67.37 of the Sunshine Ordinance and subsequent sections as time permits.

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine Required.

Sec 67.33 Department Head Declaration.

Sec 67.34 Willful Failure Shall Be Official Misconduct.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supersedes Other Local Laws.

Sec 67.37 Severability.

Sec 67.30 The Sunshine Ordinance Task Force

Public Comment: None.

Member Sheppard requested a clarification of press and electronic media representation and then questioned the need for two members of the commission to be experienced in obtaining public information.

Member Comstock said it was because people who know the process may have a better understanding of what problems the public faces when requesting documents.

Members, he said, are here to assist the public and advocate for sunshine.

Member Sheppard said justice would not be served when the task force makes sure that only complainants' rights under the Ordinance are enforced. The task force should also help mitigate or remedy the actual potential abuse of the Ordinance.

Member Pilpel said Prop. G added that the task force is to help requesters, and to determine whether compliance with requests and with the Ordinance has occurred; to recommend changes to the Ordinance to the Board of Supervisors; and to recommend to departments ways to administer it.

The current composition of the task force, he said, lacks the experience of a current or ex-employee who could provide input from a department's perspective

Member Sheppard said it is very important for the task force to have a judicious attitude and a passion to get the facts to arrive at equity.

Member Craven reminded the committee that there were other issues on the agenda

Motion to strike "a designated representative of the Youth Commission " (Comstock / Wolfe)

Public Comment: None

Ayes: Knee, Comstock, Craven, Pilpel

Noes: Wolfe

Motion to rephrase sentence to say, "The Commission shall have assigned to it an attorney from the City Attorney's Office who is experienced in or well informed in public-access law matters." Without objection.

Member Sheppard said he was concerned about how the committee interprets the phrase "media wall."

Member Craven said the phrase was intentional because of concerns that the City Attorney was giving far too conservative advice and was not fully advising the Task Force.

DCA Lorente said the language should not be changed, it should continue and be maintained. The Task Force may not agree with his colleagues representing various departments, he said, but that has nothing to do with his commitment to the Task Force.

Member Pilpel said with all the additional work members do now and more so in the future and if the Task Force is elevated to commission status, members should be compensated.

Member Wolfe said compensation should be considered because he has to use his sick and vacation days at work to be able to conduct Task Force business.

Member Sheppard said there should be a normal budget to reimburse Task Force members for actual costs they incurred in connection with their service to the City.

Member Craven requested that discussion be deferred so that she could study a City Attorney document that lists all City bodies and its compensation packages.

Chair Knee noted that only Section 67.30 (b) will be revisited at its March 12 meeting.

Changes to 67.30 (c), were made and the clerk recorded the changes.

Without objection

Section 67.35 titled Hearings and Orders of Determination was created

Section 67.36 Responsibility For Administration had no changes

Section 67.37 was discussed at an earlier meeting.

Section 67.38 continued to March 12, 2008 next meeting

Section 67.39 Willful Failure Shall Be Official Misconduct., modified

Section 67.40 Enforcement Provisions continued to next meeting

6. Administrator's report.

The Administrator made the report.

Public Comment: None

7. Public comment on items not listed on the agenda.

Public Speakers: None.

8. Announcements, questions and future agenda items from CAC members.

Member Sheppard wished all in attendance a Happy Valentine's Day.

Chair Knee said the local chapter of the Society of Professional Journalists will hold it annual James Madison Awards dinner on March 18th at the New Delhi Restaurant in San Francisco. Ticket prices are yet to be announced. The award honors individual and organizations that have championed the First Amendment and/or freedom of information.

Adjournment: The meeting was adjourned at 7:10 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force

March 12, 2008

Click on the file numbers below to obtain background materials. These files are provided in PDF format, and you must have the Adobe Acrobat Reader to access them. Click here for info about obtaining Acrobat (it's free).

SUNSHINE ORDINANCE TASK FORCE COMPLIANCE AND AMENDMENTS COMMITTEE AGENDA

Wednesday, March 12, 2008
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock, Vice-Chair; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard (ex-officio, non-voting)

Notes: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Members of the public are encouraged to fill out speaker cards but may remain anonymous. Public comment on items not listed on the agenda (Item #12) will be taken at 5:00 p.m. or as soon thereafter as possible.

Call to Order

Roll Call

Agenda Changes

1. Continued: Approval of minutes of January 9, 2008. (action item) (attachment)
2. Approval of minutes of February 13, 2008. (action item) (attachment)
3. 07075 Hearing on the status of the November 27, 2007, Order of Determination of Laura Carroll against the Mayor's Office of Housing. (discussion and possible action item) (attachment)
4. 07080a Continued hearing on the status of the November 27, 2007, Order of Determination of Dan Boreen against the Fire Department. (discussion and possible action item) (attachment)
5. 07080b Continued hearing on the status of the November 27, 2007, Order of Determination of Dan Boreen against the Fire Department. (discussion and possible action item) (attachment)
6. 07080c Continued hearing on the status of the November 27, 2007, Order of Determination of Dan Boreen against the Fire Department. (discussion and possible action item) (attachment)
7. 07087 Hearing on the status of the January 8, 2008, Order of Determination of Allen Grossman against the Mayor's Office. (discussion and possible action item) (attachment)

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8. 07088 Hearing on the status of the January 8, 2008, Order of Determination of Kimo Crossman against the Assessor's Office. (discussion and possible action item) (attachment)
9. 07094 Hearing on the status of the February 26, 2008, Order of Determination of Kimo Crossman against the City Attorney (discussion and possible action item) (attachment)
10. Possible amendments to Sections 67.30, 67.33, and 67.35 to 67.37 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.33 Department Head Declaration.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supersedes Other Local Laws.

Sec 67.37 Severability.
11. Administrator's Report. (attachment)
12. Public Comment on items not listed on the agenda. Public comment will be held at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
13. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)

Adjournment Next regularly scheduled meeting, Wednesday, April 9, 2008.

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

1. Complainant presents his/her facts and evidence 5 minutes

Other parties of Complainant presents facts & evidence Up to 3 minutes each

2. City responds 5 minutes

Other parties of City respond Up to 3 minutes each

Above total speaking time for Complainant and City to be the same

3. Complainant presents rebuttal 3 minutes
4. Public comment Up to 3 minutes each
(Excluding Complainant & City response, witnesses)
5. Matter is with the Task Force for discussion and deliberation
6. Vote by Task Force

Note: Time must be adhered to

If a speaker is interrupted by questions, the interruption does not count against his/her time.

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March 12, 2008

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE****MINUTES Wednesday, March 12, 2008**

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock Vice-Chair; Erica Craven, David Pilpel**Bruce Wolfe, Harrison Sheppard (ex-officio, non-voting)****Call to Order 4:03 P.M.****Roll Call Present:** Knee, Comstock, Craven, Wolfe (in at 4:50 p.m.)**Excused:** Pilpel, Sheppard**Agenda Changes:** Item #2 was heard after Item #3; Items #5 & 6 were combined; Item #12 was heard after Item #6.**Deputy City Attorney:** Ernie Llorente**Administrator** Frank Darby**Clerk:** Chris RustomGOVERNMENT
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1. Continued: Approval of minutes of January 9, 2008. (action item) (attachment)
Public Comment: None
Motion to approve the minutes of January 9, 2008, as amended. (Comstock / Craven)
Ayes: Knee, Comstock, Craven
Absent: Wolfe
Excused: Pilpel
2. Approval of minutes of February 13, 2008. (action item) (attachment)
Public Comment: None
Motion to approve the minutes of February 13, 2008, as amended. (Comstock / Craven)
Ayes: Knee, Comstock, Craven
Absent: Wolfe
Excused: Pilpel
3. 07075 Hearing on the status of the November 27, 2007, Order of Determination of Laura Carroll against the Mayor's Office of Housing (MOH).
Speakers: Laura Carroll, Complainant, said the outstanding documents are the list of units released from the condo program and attorney-client-privileged documents. Douglas Shoemaker said he agreed the process is slow but that the MOH has been responsive to Ms. Carroll. He submitted documents to the Task Force that he said were provided to Ms. Carroll, and said the City Attorney's Office is reviewing the attorney-client privileged documents prior to their release, which should be completed in a month.
Ms. Carroll, in rebuttal, said she doesn't know why MOH doesn't believe it must comply with §67.21(c) of the Ordinance. She said she needs to know the nature and scope of the withheld documents.
Public Comment: Kimo Crossman urged the Task Force to continue the matter since there are still documents in dispute. He said MOH should provide a description of the records being withheld.
Dee Modglin asked if the header information in attorney-client-privileged documents is subject to disclosure. She urged the committee to change the Ordinance to give the Supervisor of Records more power to investigate matters. She said Complainants have no place to go other than the Task Force. She also said there are no clear guidelines as to who can do the redactions.

Ms. Carroll, in response to Member Craven's question, said she just received the final records today from Mr. Shoemaker and that she believes she can work the other matters out with MOH.

Mr. Shoemaker, in response to Member Craven, said the only outstanding documents are the attorney-client-privileged documents being reviewed by the City Attorney.

Member Craven recommended that the matter be tabled until the call of the Chair, since the parties appear to be resolving the matter. Tabled without objection.

Chair Knee instructed Ms. Carroll to notify the Administrator in a month if the matter has not been resolved, to schedule a hearing with the Committee.

4. 07080a

Continued hearing on the status of the November 27, 2007, Order of Determination (OD) of Dan Boreen against the Fire Department.

Speakers: Dan Boreen, Complainant, asked to combine items 4, 5 and 6. Rhab Boughn, Respondent, asked that only items 5 and 6 be combined.

Items 5 & 6 were combined, without objection.

Dan Boreen said the Department is not complying with the OD and urged that the matter be referred for a finding of willful failure. Rhab Boughn said records are still being reviewed by the City Attorney's Office (CAO) regarding the redaction of City-paid benefits. He said he contacted the Oakland and San Jose fire departments, which also refer such matters to their respective CAOs.

Mr. Boreen, in rebuttal, said the CAO is holding up the documents and urged a finding of willful failure via the CAO; that it be referred to other parties.

Public Comment: Kimo Crossman said nothing was provided regarding redactions and urged a finding of willful failure against Chief Hayes-White.

Mr. Boughn, in response to Member Comstock, said he has communicated verbally with the CAO.

Member Craven said she doesn't feel the information was appropriately withheld and the withholding is a violation of the Sunshine Ordinance.

Mr. Boughn, in response to Chair Knee, said he had not consulted outside counsel who are experts in sunshine matters and he did not have a problem doing so. Member Knee suggested that he contact the California First Amendment Coalition, the First Amendment Project, or Californians Aware.

Member Comstock said he wants to ensure that Mr. Boreen gets the information.

Motion to refer the item to the Task Force with a recommendation that the Fire Department be found in violation of the Sunshine Ordinance for failure to produce all requested records, and failure to comply with the Order of Determination issued by the Task Force on November 27, 2007; that referral, based on that finding, to the Board of Supervisors for investigation and potential enforcement be considered. (Craven / Comstock)

Ayes: Knee, Comstock, Craven, Wolfe

Excused: Pilpel

5. 07080b

Continued hearing on the status of the November 27, 2007, Order of Determination of Dan Boreen against the Fire Department.

Speakers: Dan Boreen, Complainant, said he did not receive the requested calendars. Rhab Boughn, Respondent, said the chief's Prop G calendars will continue to provide minus the information that can be redacted, and submitted a copy of the Department's Prop G calendars for November 1, 2007 to March 7, 2008.

Mr. Boreen, in rebuttal, expressed objections to the handout and said the Department needs to comply with the law, and has not responded to his request for retroactive calendars.

Public Comment: Kimo Crossman said there is value in referring the matter to the Ethics Commission and urged a finding of willful failure.

Member Craven said the information provided by Mr. Boughn is important but should have been provided before the meeting. She said she is concerned that the Department is referencing only the Prop G calendar and not all calendars.

Member Comstock said providing the Prop G calendar only is not sufficient, because it would provide less sunshine.

Member Wolfe said the redactions were noted as requested and moved that the matter be referred.

Member Craven said the CAC requested, as part of the continuation of the OD, that a review of the redacted information be made and notation of the information that's been withheld be provided by the Department. She said that since the Department has not provided the requested information, she is not comfortable that the appropriate criteria were applied in making the redactions.

Motion to refer the item to the Task Force with a recommendation that the Fire Department be found in violation of the Sunshine Ordinance for failure to provide all necessary information that is releasable from the calendar, and failure to comply with the Order of Determination issued by the full Task Force on November 27, 2007; that referral, based on that finding, to the Board of Supervisors for investigation and potential enforcement be considered. (Wolfe / Knee)

Ayes: Knee, Comstock, Wolfe

Noes: Craven

Excused: Pilpel

6. 07080c Continued hearing on the status of the November 27, 2007, Order of Determination of Dan Boreen against the Fire Department.

Previously combined with item #5.

7. 07087 Hearing on the status of the January 8, 2008, Order of Determination of Allen Grossman against the Mayor's Office (MO).

Speakers: Allen Grossman, Complainant, said he still has not received the requested records. He said an anonymous source provided him with the documents that the MO should have given to him. He said the MO made no effort made to find the records and that they have not appeared before the Task Force.

Public Comment: Kimo Crossman urged the committee to refer the matter to the Ethics Commission for official misconduct and failure to appear.

Dan Boreen urged referral to the Ethics Commission and the Board of Supervisors. He said the MO should be setting an example and at least appear before the Task Force and its committees.

Member Craven questioned whether the search was done and whether there was timely response. She said referral of matters to Ethics Commission must be on the ground of willful failure.

Mr. Grossman, in response to Member Wolfe, said that he did not want to identify his source.

Motion to refer the item to the Task Force with a recommendation that the Mayor's Office be found in willful failure for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on January 8, 2008; that referral, based on that finding, to the Ethics Commission for enforcement be considered. (Craven / Wolfe)

Ayes: Knee, Comstock, Craven, Wolfe

Excused: Pilpel

Member Wolfe asked if names of individual respondents should be included with the motion. Member Craven responded that ultimately the Department head is responsible but that individuals' names may be added by the full Task Force.

8. 07088 Hearing on the status of the January 8, 2008, Order of Determination of Kimo Crossman against the Assessor's Office (AO).

Speakers: Kimo Crossman, Complainant, said the AO's response letter was not sent directly to him; that he did not receive all calendars, only the Prop G calendar, and that redactions were not specifically keyed. He asked that the matter be referred to the Ethics Commission (EC) and the Board of Supervisors.

Public Comment: Allen Grossman urged the committee to refer the matter to the EC.

Dan Boreen said the Department doesn't have the dignity to appear and urged referral.

Dee Modglin said she echoes the frustration of others who appear but can't get matters done by the Task Force.

Member Craven said the AO complied with the Order of Determination, though she doesn't agree that there is justification for the redactions. She recommended that Chair Knee write a letter to the AO thanking them for providing the information and indicating that the following categories were impermissibly redacted and the reason:

1. ...events in which business pertaining to the Office of the Assessor-Recorder was not discussed.
[Task Force Reasoning: Too narrow – if they are discussing city business it should be listed.]
2. Entries involving meetings with the City Attorney...due to attorney-client privilege. [Task Force Reasoning: The fact that the meeting took place and which CA the AO met with are not covered by attorney-client privilege; only the subject matter.]
3. Names of Assessor-Recorder staff ... were replaced by job title.
[Task Force Reasoning: There is no justification for redacting the names of staff and replacing them with job titles.]

She said the letter should also request that they appear in person at the April 9, 2008, meeting to justify the redactions and to describe what steps the AO is taking to implement a policy on redaction of calendars, and that the AO provide a written response by April 2, 2008. Without objection.

Member Wolfe said the letter should also indicate that the Complainant did not receive the January 24, 2008, letter. Member Comstock said the AO should be instructed to address replies to the Complainant as well as to the Task Force.

Member Comstock suggested that the letter also point out the specific section of the Ordinance (§67.26) regarding redactions.

Continued to the April 9, 2008, meeting.

9. 07094

Hearing on the status of the February 26, 2008, Order of Determination (OD) of Kimo Crossman against the City Attorney's Office (CAO).

Speakers: Kimo Crossman, Complainant, said he asked for all calendars, not just the Prop G calendar, and they were not provided. He said the OD was not complied with and the Department did not attend. He urged the Task Force to find a violation for willful failure and official misconduct.

Public Comment: Allen Grossman said the Complainant has nowhere to go but to the Task Force, except for a lawsuit. He said the CAO sets a pattern in all complaints with regard to responsiveness and attendance; that the CAO has no problem putting people requesting records through hurdles.

Dan Boreen said the CAO should set the example by appearing, and should be held to a higher standard. He said there is another working calendar that is not being provided. He urged the Task Force to refer the item for willful failure.

Motion to refer the item to the Task Force with a recommendation that the City Attorney's Office be found in willful failure to comply with the Sunshine Ordinance, and failure to keep withholding to a minimum and to provide the requested daily calendar in compliance with the Order of Determination issued by the full Task Force on February 26, 2008; that referral, based on that finding, to the Ethics Commission for enforcement be considered. (Comstock / Wolfe)

Ayes: Knee, Comstock, Craven, Wolfe

Excused: Pilpel

DCA Llorente suggested that the Committee also identify §67.26 (withholding kept to a minimum), so the CAO can respond appropriately.

Member Wolfe said it should be clear that the Sunshine laws refer to all calendars and not just the Prop G calendar.

10. Possible amendments to Sections 67.30, 67.33, and 67.35 to 67.37 of the Sunshine Ordinance and subsequent sections as time permits.
- Sec 67.30 The Sunshine Ordinance Task Force.
- Sec 67.33 Department Head Declaration
- Sec 67.35 Enforcement Provisions.
- Sec 67.36 Sunshine Ordinance Supersedes Other Local Laws.
- Sec 67.37 Severability.
- Public Comment (PC) re Section 67.30: Kimo Crossman said he is disappointed that the Committee has to wait for Member Pilpel to discuss.
- PC re Sections 67.33 and 67.35: Kimo Crossman said he is disappointed that DCA Llorente is not doing the research on enforcement as requested by the Task Force. He asked the Task Force to require that DCA Llorente provide all research as used by the Ethics Commission.
- Allen Grossman urged the Committee to develop uniform enforcement because there are enforcement provisions in Sections 67.34, 67.35, and 67.40. He said it's hard to tell which is being followed.
- Dan Boreen said he heard that the Ethics Commission is too busy to properly address referrals from the Task Force. He urged the Task Force to develop its own enforcement authority.
- Dee Modglin urged the Task Force to obtain more authority to resolve matters, to get paid for attending meetings, and to receive meals during meetings.
- PC re Section 67.36: Allen Grossman urged the Task Force to amend the language to make reference to the charter in addition to local laws as being equaled or superseded by the Ordinance.
- Kimo Crossman said he agreed with Mr. Grossman. He said language addressing public forums should be added, including a provision for enforcement of the 10-day rule.
- Dan Boreen said language should be added regarding the destruction of records.
- Sections 67.36 and 67.37 were discussed and the Administrator recorded recommended amendments.
- Chair Knee, by consensus of the Committee, asked the Administrator to agendize Sections 67.30 (b), 67.33, 67.35 for the April 9, 2008, meeting.
11. Administrator's report.
- The Administrator made the report.
- Public Comment: None
12. Public comment on items not listed on the agenda. Public comment will be held at 5:00 p.m. or as soon thereafter as possible.
- Public Speakers: Kimo Crossman urged the Committee to review §67.21(c) and to broaden the Supervisor of Records role.
- Dee Modglin asked the Committee to answer questions as to what constitutes a redaction and who may make the redactions. She also asked if the header and footer could be redacted in attorney-client-privileged e-mails.
- DCA Llorente, in response to Member Knee, said he believes the entire communication is privileged.
- Member Craven said only the content/substance could be redacted, and that redactions may be made by anyone.
- Allen Grossman said the Task Force should not be discouraged from referring matters to the Ethics Commission. He said the Ethics Commission's responsibility is only to enforce the Task Forces referrals and not to investigate them.

Laura Carroll asked for guidance on enforcement of §67.21(c). She said she wants to be able to appropriately request records.

Member Craven responded that this was not an appropriate forum to provide legal interpretation and urged her to forward her questions to the Administrator or the Supervisor of Records.

Dan Boreen apologized for his prior outburst and asked that complainants be allowed to clarify statements made during members' discussions of complaints. He urged the Task Force to take a stronger position on timeliness and said referring matters to the Ethics Commission would show a pattern.

13. Announcements, questions and future agenda items from CAC members.

Chair Knee announced that the Society of Professional Journalists, Northern California chapter, will hold its annual James Madison Awards dinner honoring champions of the First Amendment and freedom of information at 6 p.m. on Tuesday March 18, at the New Delhi Restaurant, 160 Ellis St., San Francisco.

Adjournment: The meeting was adjourned at 7:10 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

APR 04 2008

Wednesday, April 9, 2008
4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee, Chair; Doug Comstock, Vice-Chair; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard (ex-officio, non-voting)

Notes: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Members of the public are encouraged to fill out speaker cards but may remain anonymous. Public comment on items not listed on the agenda (Item #9) will be taken at 5:00 p.m. or as soon thereafter as possible.

Call to Order
Roll Call
Agenda Changes

1. Approval of minutes of March 12, 2008. (action item) (attachment)
2. 07088 Continued hearing on the status of the January 8, 2008, Order of Determination of Kimo Crossman against the Assessor's Office. (discussion and possible action item) (attachment)
3. 07096 Hearing on the status of the February 26, 2008, Order of Determination of Kimo Crossman against the Mayor's Office (discussion and possible action item) (attachment)
4. 08004, 08005 & 08007 Hearing on the status of the March 25, 2008, Order of Determination of Kimo Crossman against the City Attorney's Office. (discussion and possible action item) (attachment)
5. 08006 Hearing on the status of the March 25, 2008 Order of Determination of Kimo Crossman against the City Attorney's Office. (discussion and possible action item) (attachment)
6. 08013 Hearing on the status of the March 25, 2008 Order of Determination of Kimo Crossman against the Sunshine Ordinance Task Force Administrator. (discussion and possible action item) (attachment)

7. Possible amendments to Sections 67.30, 67.33, and 67.35 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
 - a. Sec 67.30 The Sunshine Ordinance Task Force.
 - b. Sec 67.33 Department Head Declaration.
 - c. Sec 67.35 Enforcement Provisions.
8. Administrator's Report: (attachment)
9. Public Comment on items not listed on the agenda. Public comment will be held at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
10. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)

Adjournment Next regularly scheduled meeting, Wednesday, May 14, 2008.

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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Other parties of Complainant presents facts & evidence Up to 3 minutes each
2. City responds 5 minutes
Other parties of City respond Up to 3 minutes each
Above total speaking time for Complainant and City to be the same
3. Complainant presents rebuttal 3 minutes
4. Matter is with the Task Force for discussion and deliberation
5. Public comment Up to 3 minutes each
(Excluding Complainant & City response, witnesses)
6. Vote by Task Force

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April 9
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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

**Wednesday, April 9, 2008
4:00 p.m., City Hall, Room 406**

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Committee Members: Richard Knee, Chair; Doug Comstock Vice-Chair; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard (ex-officio, non-voting)

Call to Order 4:05 P.M.

Roll Call Present: Knee, Comstock, Craven, Pilpel, Wolfe (in at 4:42)

Absent: Sheppard

Agenda Changes: Item #9 was heard after item #2 and item #6 was heard after item #9

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

Clerk: Chris Rustom

Agenda change:

The Administrator asked to hear item #6 after item #2, because Mr. Rustom will need to leave at 5:00 PM.
Without objection.

1. Continued: Approval of minutes of March 12, 2008.

Public Comment: None

Motion to approve the minutes of March 12, 2008. (Comstock / Craven)

Ayes: Knee, Comstock, Craven, Pilpel

Absent: Wolfe

2. 07088 Hearing on the status of the January 8, 2008, Order of Determination (OD) of Kimo Crossman against the Assessor's Office (AO).

Speakers: Kimo Crossman, Complainant, referred to page 23 of the packet and said that only the Prop. G calendar was provided; that he asked for all detailed calendars but they were not provided. He also said the names of employees were not provided. Zoon Nguyen, for Respondent, referred to her letter on page 17 and said she was here to answer questions.

Mr. Crossman, in rebuttal, said the AO still refuses to provide the names of employees, to provide a revised calendar, or to address how they will revise the process. He said he is uncertain that disclosing personal information is an invasion of privacy.

Public Comment: None

Member Craven asked if Assessor Phil Ting has a separate calendar from the Prop. G calendar? Ms. Nguyen said she has no knowledge of a separate calendar. She also said employees have asked not to be identified and that the calendar shows the employees' title and may also include the employees' initials.

Member Craven said there is no justification for non-disclosure of employees' names unless for whistleblower or anti-harassment protection. She said she doesn't believe the time and date of meetings or the time spent are attorney-client-privileged, that only what is discussed with the attorney is privileged.

Member Pilpel said he doesn't believe any additional information is required on the Prop. G calendar. He asked if other deputies were included in the 15 meetings with the City Attorneys. Ms. Nguyen said yes, that the meetings were mostly with the deputies of various teams, and that information was discussed pertaining to potential litigation.

Member Pipel said he isn't certain if there is any further action needed.

Member Comstock said Ordinance §67.29-5 nor the California Public Records Act does exclude the disclosure of an employee's name; that the redactions were not justified.

Chair Knee said the spirit of the Ordinance, CPRA, and Prop. 59 is that there be a broad interpretation regarding disclosure and a narrow definition regarding withholding.

Motion to refer the item to the Task Force for a finding of a violation of Ordinance §67.21(b) against the AO. The Committee further recommends that the AO be referred to the appropriate enforcement agency for failure to keep withholding to a minimum, by redacting the date and time of the meeting and redacting and/or replacing City employees initials/names from the calendar with job titles. (Craven / Knee)

DCA Llorente said the City Attorney's Office (CAO), in interpreting §67.29-5, looked at the narrow view and the Task Force is looking at the whole of the Ordinance including §67.21 and the CPRA, which will be a recurring issue; that he's not certain whether this matter can be settled at this level. He said he's not certain whether the actions are willful but that the AO is following an interpretation.

Member Pipel asked Ms. Nguyen if the department responded to the OD by the 5-day response deadline stipulated in the Ordinance. Ms. Nguyen said yes. Member Pipel said that since the department has responded as per the OD he does not support a referral.

Member Craven said that at the time of the hearing Ms. Nguyen could not tell nor disclose to the Task Force what was redacted, so it is not reflected in the OD.

Amended motion, in light of the information provided at the Compliance and Amendments Committee about information that has been redacted, including the redaction of the date and time of the meeting with the CAO and redacting and/or replacing employees' names with job titles, the Compliance and Amendments Committee refer this matter back to the Task Force with a finding of a violation of §67.21(b) and if adopted that the matter be referred to the appropriate enforcement agency for failure to comply with the Ordinance. (Craven / Knee)

Member Pipel argued that the proposed motion is a new format that requires a new hearing on the merits of an additional violation allegation. He questioned the appropriateness of the motion and whether the department would be denied due process.

DCA Llorente urged the Members to be guided by their OD. He said the AO has responded as requested and although the response is not acceptable, it isn't a violation of the OD. He said that since the Committee has new information and does not agree that redactions are justified, the department may be instructed to release the information and that the matter may be referred to an appropriate agency if the department does not comply.

Member Comstock said the AO set a bad precedent by not disclosing information earlier, and that referral is the best course of action.

Member Craven proposed a procedure suggesting that, since there was a lack of information at the initial hearing, the matter be returned to the full Task Force for a subsequent hearing recommending that the Task Force find a violation of the Ordinance for failure to produce the requested information under §67.21 (b). She said that if the AO stands behind its original arguments and will not produce the two categories of information, the Task Force could find a violation and immediately refer it because there would be no use in forwarding the matter back to the Compliance and Amendments Committee. She said that this is one way of returning the issue to the Task Force for a determination and resolving any due process issue.

DCA Llorente said he would totally agree with the proposed procedure.

Member Pipel said he doesn't agree that a violation on a new OD or different OD could be made and referred at the same meeting without a waiver from the respondent without sufficient notice

Motion to refer to the full Task Force a finding that, based on subsequent information provided as required by the OD of January 8, 2008, the AO has impermissibly redacted and/or withheld information from the Assessor's calendar, specifically the date and time of the meeting with the CAO and redacting and/or replacing City employees' names from the calendar with job titles. The Compliance and Amendments Committee recommends that there be a hearing and a finding of a violation of §67.21(b), and that at the discretion of the full Task Force the issue be returned for further proceedings to the Compliance and Amendments Committee or if it appears from the department that their position has not changed that it be referred to the appropriate agency for enforcement. (Craven / Knee)

Ayes: Knee, Comstock, Craven, Wolfe

Noes: Pilpel

Chair Knee informed Ms. Nguyen that at the next Task Force meeting that the AO send a knowledgeable person regarding the calendar to discuss the redactions that were made. Along with a detailed explanation of the two outstanding items.

3. 07096

Hearing on the status of the February 26, 2008, Order of Determination (OD) of Kimo Crossman against the Mayor's Office (CAO).

Speakers: Kimo Crossman, Complainant, said that he did not get any information in response to the OD and urged a referral to the appropriate bodies.

Public Comment: Allen Grossman said that failure to attend and to respond by the Mayor's office is clearly a willful failure.

Motion to continue. (Pilpel/Craven)

Ayes: Pilpel

Noes: Knee, Comstock, Craven, Wolfe

Motion to refer the item to the Task Force with a recommendation that the Mayor's Office be found in willful failure to comply with the Sunshine Ordinance for failure to keep withholding to a minimum, failure to provide the requested daily calendar, and failure to appear in compliance with the Order of Determination issued by the full Task Force on February 26, 2008; that referral, based on that finding, to the Ethics Commission and the Board of Supervisors for enforcement be considered. (Comstock / Wolfe)

Ayes: Knee, Comstock, Craven, Wolfe

Noes: Pilpel

4. 08004, 08005
& 08007

Hearing on the status of the March 25, 2008, Order of Determination of Kimo Crossman against the City Attorney's Office (CAO).

Speakers: Kimo Crossman, Complainant, said he did not receive any records per the OD, and urged a referral for willful failure.

Chair Knee read an e-mail from the CAO that said that its position has not changed and that a representative would not be attending the meeting.

Public Comment: Allen Grossman said failure to appear is serious and should have some sanctions. He said Alexis Thompson, the CAO's deputy press secretary, was not qualified to respond to the complaint. He urged Member Pilpel to recuse himself for lack of objectivity for any matters pertaining to Mr. Grossman.

Member Pilpel said he holds no bias against Mr. Grossman, and that the communications from the CAO is not timely he would support referral.

Motion to refer the item to the Task Force with a recommendation that the CAO be found in willful failure to comply with the Ordinance, for failure to produce records regarding communications between the CAO and the District Attorney in compliance with the OD of March 25, 2008; that referral, based on that finding, to the Ethics Commission for enforcement be considered. (Comstock / Craven)

Ayes: Knee, Comstock, Craven, Pilpel, Wolfe

5. 08006

Hearing on the status of the March 25, 2008 Order of Determination of Kimo Crossman against the City Attorney's Office.

Speakers: Kimo Crossman, Complainant, said the Supervisor of Records has not released any rulings on this matter and urged the Committee to refer the matter to the appropriate body and to name Buck Delventhal and the Supervisor of Records in the referral.

Public Comment: None.

Motion to refer the item to the Task Force with a recommendation that the CAO be found in willful failure to comply with the Ordinance for improperly redacting [non-] attorney-client privilege and work-product from

the e-mails produced in compliance with the OD of March 25, 2008; that referral, based on that finding, to the Ethics Commission for enforcement be considered. (Comstock / Wolfe)

Ayes: Knee, Comstock, Craven, Pilpel, Wolfe

6. 08013

Hearing on the status of the March 25, 2008 Order of Determination of Kimo Crossman against the Sunshine Ordinance Task Force Administrator.

Speakers: Kimo Crossman, Complainant, said he did not receive the e-mails per the OD, and urged referral and that an example be made of the Administrator. Frank Darby, Administrator, said that while the Department respects the right of the Task Force to set policy, after consulting the City Attorney's Office and absent clear legal basis, the office will not provide the third-party e-mail addresses.

Mr. Crossman, in rebuttal, said he wants the refusal in writing. He said he met with the Clerk of the Board (COB) last week and she said the CAO is researching the issue; that the Administrator is operating on his own. He urged referral to the Ethics Commission, Board of Supervisors, the District Attorney and the state Attorney General.

Public Comment: Allen Grossman said the Administrator is subject to the management of the Task Force. He said the Administrator works for the Task Force, not the CAO or the COB, and should follow the Task Force's instructions.

Member Pilpel asked Mr. Darby if the COB redacts e-mail addresses from its "C" Pages. Mr. Darby said he was not certain.

Mr. Crossman responded that the COB said during their meeting that the office does not redact anything from the "C" Pages.

Member Pilpel asked DCA Llorente if the SOTF Administrator is required to take policy direction from the COB. Mr. Llorente said the Ordinance is not clear on that matter. He said the Administrator is not hired or evaluated by the Task Force, but reports to the COB.

Member Wolfe asked Mr. Darby the name(s) of the City Attorney(s) that he consulted and if he is the staff for the SOTF or the COB. Mr. Darby responded that he had verbal conversations with Paul Zarefsky and Cathy Barnes, and that he is on the staff of the COB, who provides administrative support to the SOTF.

Member Pilpel suggested the Task Force develop it's own policy for the Administrator regarding non-redaction of e-mails.

Motion to refer the item to the Task Force with a recommendation that the Administrator be found in willful failure to comply with the Ordinance, and failure to keep withholding to a minimum, and be ordered to provide the requested unredacted personal e-mail addresses in compliance with the OD of March 25, 2008; that referral, based on that finding, to the Board of Supervisors for enforcement be considered. (Comstock / Wolfe)

Ayes: Knee, Comstock, Craven, Wolfe

Noes: Pilpel

Member Craven said that although she supports the referral, she doesn't think that it rises to the level of willful failure, because the matter is not specifically addressed in the Ordinance.

7.

Possible amendments to Sections 67.30, 67.33, and 67.35 of the Sunshine Ordinance and subsequent sections as time permits.

a. Sec 67.30 The Sunshine Ordinance Task Force.

b. Sec 67.33 Department Head Declaration.

c. Sec 67.35 Enforcement Provisions.

Public Comment (PC) re Section 67.30: Kimo Crossman said Member Wolfe asked that this section be agendized because he wanted to amend it to give the Task Force some perquisites and other benefits.

Allen Grossman referred to his proposed amendments (packet pages 108-125) and asked that the definition regarding disability be changed (packet page 111). He also asked that the Committee accept new subdivision (d) regarding what the SOTF should embrace in its own by-laws.

The Committee discussed Member Cravens proposed changes to Article IV

Section 67.30 was discussed and the Administrator recorded recommended amendments

Chair Knee, by consensus of the Committee, asked the Administrator to agendize Sections 67.33 to 67.37 for the May 14, 2008, meeting, and new proposed sections.

8. Administrator's report.

The Administrator made the report. He informed members that the deadline for submitting applications for a seat on the Task Force is Monday, April 21, 2008, and that the BOS Rules Committee plans to screen applicants on Thursday, May 1, 2008.

Public Comment: None.

9. Public comment on items not listed on the agenda. Public comment will be held at 5:00 p.m. or as soon thereafter as possible.

Public Speakers: Kimo Crossman urged Member Pipel to look at CPRA Section 6253 (e), which allows greater disclosure. He said the chair should run the meeting and not non-chairs, and urged the Committee to ask the new COB to provide a flat-screen video monitor so the public can follow along when proposed amendments to the Ordinance are discussed.

Allen Grossman said the Ordinance does not exempt or limit disclosure of calendars, and that the City Attorney's advise consistently conflicts with the direction of the Task Force.

10. Announcements, questions and future agenda items from CAC members.

Speakers: DCA Llorente said he will be late for the April 22, 2008, Task Force meeting, arriving at approximately 6:00 or 6:30 PM. He said no other person from his office will be available to attend, because Rosa Sanchez will be out of the country.

Adjournment: The meeting was adjourned at 7:46 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force



May 14, 2008

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SUNSHINE ORDINANCE TASK FORCE COMPLIANCE AND AMENDMENTS COMMITTEE AGENDA

**Wednesday, May 14, 2008
4:00 p.m., City Hall, Room 406**

Committee Members: Richard Knee, Chair; Doug Comstock, Vice-Chair; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard (ex-officio, non-voting)

Notes: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Members of the public are encouraged to fill out speaker cards but may remain anonymous. Public comment on items not listed on the agenda (Item #6) will be taken at 5:00 p.m. or as soon thereafter as possible.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of April 9, 2008. (action item) (attachment)
2. 08018 Hearing on the status of the April 22, 2008, Order of Determination of Kimo Crossman against the Sunshine Ordinance Task Force Administrator. (discussion and possible action item) (attachment)
3. Discussion re: developing recommendations of the document retention policy of the Board of Supervisors. (discussion and possible action item) (no attachment)
4. Possible amendments to Sections 67.33 to 67.37 of the Sunshine Ordinance, additional proposed new sections and subsequent sections as time permits. (discussion and possible action item) (attachment)
 - a. Sec 67.33 Department Head Declaration.
 - b. Sec 67.34 Willful Failure Shall Be Official Misconduct.
 - c. Sec 67.35 Enforcement Provisions.
 - d. Sec 67.36 Sunshine Ordinance Supersedes Other Local Laws.
 - e. Sec 67.37 Severability.
5. Administrator's Report. (attachment)
6. Public Comment on items not listed on the agenda. Public comment will be held at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
7. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)

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Adjournment Next regularly scheduled meeting, Wednesday, June 11, 2008.

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the

beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

1. Complainant presents his/her facts and evidence 5 minutes

Other parties of Complainant presents facts & evidence Up to 3 minutes each

2. City responds 5 minutes

Other parties of City respond Up to 3 minutes each

(Above total speaking times for Complainant and City to be the same.)

3. Matter is with the Task Force for discussion and questions to parties.

4. Respondent and Complainant present clarification/rebuttal 3 minutes

5. Matter is with the Task Force for motion and deliberation.

6. Public comment Up to 3 minutes each

(Excluding Complainant & City response, witnesses)

7. Vote by Task Force

(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: *The hearing room is wheelchair accessible.*

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Administrator by mail to: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854; or by email at sotf@sfgov.org.

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May 14 Disclaimer

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

**Wednesday, May 14, 2008
4:00 p.m., City Hall, Room 406**

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Committee Members: Richard Knee, Chair; Doug Comstock Vice-Chair; Erica Craven, David Pilpel, Bruce Wolfe, Harrison Sheppard (ex-officio, non-voting)

Call to Order 4:04 P.M.

Roll Call Present: Knee, Comstock, Craven, Pilpel (in at 4:10)

Absent: Sheppard

Excused: Wolfe

Agenda Changes: Item #6 was heard after item #4a

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

Clerk: Chris Rustom

1. Approval of minutes of April 9, 2008.
Public Comment: None
Motion to approve the minutes of April 9, 2008. (Comstock / Craven)
Ayes: Knee, Comstock, Craven
Absent: Pilpel
Excused: Wolfe
2. 08018 Hearing on the status of the April 22, 2008, Order of Determination (OD) of Kimo Crossman against the Sunshine Ordinance Task Force Administrator.

Speakers: Kimo Crossman, Complainant, said he received scanned documents 105 days after he had requested them. He said he appreciates the new scanning policy and that most e-mail systems can't handle 15 MB, however there should be no limitation. He said the Clerk's Office should use other free services/methods such as *yousendit.com* to distribute files over 15 MB rather than saving to CD. Frank Darby, Respondent, said the documents were provided pursuant to the OD issued by the Task Force. He referred to the new Scanning Policy issued by the Clerk's Office and said the file limitation is based on the limits of the departments e-mail system and that the resolutions of the scanners are set at 200 DPI.

Kimo Crossman, in rebuttal, said he wants to see greater flexibility in the distribution of the files rather than CD.

Member Craven said the Clerk's policy is a good start and that most e-mail data bases can handle only about 6 MB. She said the administrator should have responded within 5 days after issuance of the OD.

Member Pilpel said he did not agree with the language in the OD regarding the SOTF policy. He asked if the documents had been distributed to the parties. Both parties confirmed the documents had been distributed.

Chair Knee said he does not see a need for any further action.

No action taken.
3. Discussion re developing recommendations of the document retention policy of the Board of Supervisors.

Member Pilpel asked what the item was about.

Member Knee said it was about the Board's need to have a retention policy.

Administrator Darby responded that SOTF Chair Comstock had asked at the April 22, 2008, Task Force meeting to agendize the matter with the CAC, however, he didn't know why.

Member Craven said the issue was whether the Board's policy was in compliance with the law regarding retention of e-mails. She said the Committee needs to see the Board's e-mail policy, retention schedule and other applicable retention requirements.

Member Pilpel asked that §8.1 to 8.3 of the San Francisco Administrative Code also be provided.

Public Comment: Kim Crossman said he recalls that the matter is due to concerns re deletions of e-mails by the SOTF Administrator. He said e-mails should not be deleted, but be retained for two years at a minimum; that printed e-mail is not the original.

Member Pilpel said he is not certain that all e-mails need to be retained for 2 years.

Chair Knee said the law is clear in the Sunshine Ordinance, CPRA and Prop. 59 that e-mail correspondence is a public record.

Continued without objection.

4. Possible amendments to Sections 67.33 to 67.37 of the Sunshine Ordinance, additional proposed new sections and subsequent sections as time permits.

- a. Sec 67.33 Department Head Declaration.
- b. Sec 67.34 Willful Failure Shall Be Official Misconduct.
- c. Sec 67.35 Enforcement Provisions.
- d. Sec 67.36 Sunshine Ordinance Supersedes Other Local Laws.
- e. Sec 67.37 Severability.

Member Pilpel submitted and discussed proposed language for §67.33

Public Comment (PC) re §67.33: Kim Crossman said there is too much information to adopt the proposed language on such short notice. He said he does not like that the Task Force can't approve the annual Sunshine Training, and urged the Committee to take no action on the proposed language.

Continued without objection.

Chair Knee asked the Administrator to agendize §67.33 for next month's meeting.

The Committee recessed from approximately 5:05 PM to 6:07 PM after it was learned the City Hall entrances were closed due to a bomb threat, which prevented access to the meeting by members of the public.

Proposed new Section 67.38 to 67.40 submitted by Member Craven were discussed and the Administrator recorded recommended amendments.

Public Comment re proposed new §67.38 to 67.40: Kim Crossman commented:

- §67.38 = no comment
- §67.39 (a) = add language that prohibits the City Attorney's Office from providing advice regarding the Sunshine Ordinance.
- §67.39 (b) = add a requirement that oral communication with the City Attorney regarding sunshine or ethics matters be documented.
- §67.40 = 1) Limit departments' response time to Orders of Determination to only 5 calendar days, 2) require departments to post violations for 5 years on their website, and 3) add language to identify the entity to whom violations by the Ethics Commission may be referred, and empower the Task Force to agendize a referred matter with the Board of Supervisors.

The Committee, by consensus, agreed to move subsection 67.38 (f) to 67.39 (d) and 67.38 (e) to the section titled "Response for Administration."

Motion accepting proposed new §67.38 submitted by Member Craven. (Comstock / Knee)

Ayes: Knee, Comstock, Craven, Pilpel

Excused: Wolfe

Proposed new §§67.39 and 67.40 submitted by Member Craven were discussed and the Administrator recorded recommended amendments.

The committee, by consensus, agreed to move §67.39 before §67.38 and to renumber the sections.

DCA Llorente to reword the language in §67.40 (d) (2)

Chair Knee, by consensus of the Committee, asked the Administrator to agendize all of Article IV and proposed new sections for the June 11, 2008, meeting.

5. Administrator's report.

- The Administrator made the report.
- He informed members that there are four complaints to be heard at the May 27, 2008, Task Force meeting.
- That the BOS Rules Committee will screen applicants on Thursday, May 15, 2008, for seats 6 and 7.
- The Board approved the new appointments yesterday. Members will need to be sworn in on May 27, 2008, prior to the meeting.

6. Public comment on items not listed on the agenda. Public comment will be held at 5:00 p.m. or as soon thereafter as possible.

Public Speakers: Kimo Crossman said the Mayor's veto of the audio-video recording was overridden by the Board and that the matter is now about obtaining the funds. He urged the Task Force to implement the policy now by requiring the Administrator to post the digital recordings on the SOTF website. He said there is no dispute that e-mails are public records that should be retained, but that voice messages are not being retained.

Member Knee asked Mr. Crossman about the cost for audio-video recordings. Mr. Crossman said the cost is \$76K/year for 1 FTE and \$50K one time cost for equipment.

7. Announcements, questions and future agenda items from CAC members.

Member Knee informed members that on October 17 and 18 the California First Amendment Coalition will have its annual Open Government Assembly at UC Berkeley.

Adjournment: The meeting was adjourned at 7:37 p.m.

This meeting has been audio-recorded and is on file in the office of the Sunshine Ordinance Task Force



Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
SPECIAL MEETING AGENDA**
Wednesday, June 4, 2008
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock, Vice-Chair; Erica Craven, David Pilpel, Harrison Sheppard (ex-officio, non-voting)

Notes: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Members of the public are encouraged to fill out speaker cards but may remain anonymous.

Call to Order
Roll Call
Agenda Changes

1. Possible revisions to the Sunshine Ordinance Article 4. (discussion and possible action item) (attachment)
2. Review of proposed revisions to Sunshine Ordinance Articles 1-3, as time permits. (discussion and possible action item) (attachment)

Adjournment Next regularly scheduled meeting, Wednesday, June 11, 2008.

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SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

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- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |
| <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. Matter is with the Task Force for discussion and questions. | |
| 4. Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. Matter is with the Task Force for motion and deliberation. | |
| 6. Public comment <i>(Excluding Complainant & City response, witnesses)</i> | Up to 3 minutes each |
| 7. Vote by Task Force <i>(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)</i> | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE: Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Administrator by mail to: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854; or by email at SOTF@sfgov.org.

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Lobbyist Registration & Reporting Requirements: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; website: sfgov.org/ethics.

June 4 (special meeting)

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SUNSHINE ORDINANCE TASK FORCE COMPLIANCE AND AMENDMENTS COMMITTEE MINUTES

Wednesday, June 4, 2008

4:00 p.m., City Hall, Room 406

Committee Members: Richard Kneec, Chair; Doug Comstock Vice-Chair; Erica Craven,
David Pilpel, Harrison Sheppard (ex-officio, non-voting)

Call to Order 4:10 P.M.

Roll Call Present: Kneec, Comstock, Craven, Pilpel

Excused: Sheppard

Agenda Changes: None

Deputy City Attorney: Ernie Llorente

Administrator Frank Darby

Clerk: Chris Rustom

1. Possible revisions to the Sunshine Ordinance Article 4
Sec. 67.34 The Sunshine Commission
Public Comment: Kimo Crossman said he hopes the committee would remove the physically disabled member requirement because the clause is problematic.
Motion to strike out sentence regarding the disability requirement (Page 88/line 9 thru 12 . (Pilpel / no second)
Motion to designate one of the four general public seats for a member of the public with a disability that meets the definition of disabled under the American Disabilities Act. and who has demonstrated interest in citizen access and participation in local government. (Pilpel / Kneec)
(Amending lines 3 – 5 on 88 to incorporate lines 9 – 12)
Ayes: Pilpel
Noes: Kneec, Comstock, Craven
Motion to add "when possible" in line 9 after "shall include." (Comstock/Pilpel)
Ayes: Kneec, Comstock, Pilpel
Noes: Craven
Motion to move sentence starting with "The City Attorney" on line 14 to the end of the section on line 24 to new 67.38 (a) which is on the role of the City Attorney's Office. (Craven/ Comstock)
Ayes: Kneec, Comstock, Craven, Pilpel
The motion passes
Motion to end sentence on line 20 to end at "pertinent" and to strike out the rest of the sentence. (Pilpel/ Comstock)
Ayes: Kneec, Comstock, Pilpel
Noes: Craven
Public Comment: Grossman said he wants sentence regarding city Attorney's advisory role with the commission removed because the advisor is the assigned deputy city attorney. He also presented a handout.
Motion to change "it" to "the Commission" in line 20. (Pilpel/Comstock)
Without objection.

Motion to strike out "at its request" on line 16. (Knee/Comstock)

Ayes: Knee, Pilpel

Noes: Comstock, Craven

Motion fails

Motion to change line 9 on page 88 to read "The commission shall include when possible at least one member with a disability as defined by the Federal Americans with Disabilities Act." (Knee/Comstock)

Without objection

Motion to replace "appointive" with "voting" on page 89, line 6. (Knee/Comstock)

Without objection

Changing "District Attorney or the State Attorney General" to "District Attorney and the State Attorney General" on line 20 on page 89. . (Knee/Comstock)

Without objection

Motion to replace "is empowered to" with "may" on page 89 line 19. (Pilpel/Comstock)

Without objection

2. 67.31 Sec.67.35 Responsibility of Commission

Public Comment: No Comment:

Line 23 the Board

The Board of Supervisors shall provide sufficient staff, facilities, equipment and any other resources to enable the Sunshine Commission to fulfill its duties under this ordinance. The Clerk of the Board of Supervisors shall provide at least one full time staff person, who shall be the Administrator of the commission, to perform administrative duties for the commission including assisting any person in gaining access to public meetings and public information. (Pilpel/Comstock)

Without objection

67.32 Sec. 67.36 (a) Provision of services to Other Agencies

Public Comment:: None

Member Comstock suggests public comment to be unrestricted, as he believes the privilege will not be abused.

Motion to remove sentence starting on page 92 line 23. (Pilpel/Comstock)

Mr. Grossman said the Task Force needs to consider the private public partnerships where meetings are not open to the public.

Mr. Crossman suggested leaving it the way it is because the City Attorney has already signed off on it.

Ayes: Comstock, Pilpel

Noes: Knee, Craven

The motion fails

67.32 Sec. 67.36 (b)

Motion to start sentence on page 93 line 1 to start as paragraph b. (Pilpel/Comstock)

Subsection (a) on line 11 page 92 is restored.

67.33 Sec. 67.37 Department Head Declaration

Public Comment: Mr. Crossman said the paragraph need not be changed because it is concise.

Continued to June 10, 2008, and include Member Pilpel's letter in packet.

Sec. 67.38 (a) Role of City Attorney's Office, Advice Shall Be Public Information

No change

Sec. 67.38 (b) through Sec. 67.38 (e)

Public Comment: Mr. Grossman said the paragraph is repetitive because most of it is in of 67.21 (k). He wanted "act as legal counsel to" and substitutes it with "assist" (b). He also wanted paragraph (c) to read that the City Attorney's Office should not provide oral advice. Mr. Crossman said this paragraph needs to include the Ethics law as well as confront Sheriff's and DA's assertions that they don't have to release their communications on open government matters.

Motion to replace "act as legal counsel" with "directly or indirectly" in paragraph (b). (Comstock)

Motion withdrawn

Sec. 67.38 (b) Continued to June 11, 2008.

Mr. Grossman said the playing field has to be leveled by keeping the City Attorney out of the process. Mr. Crossman said the section needs to be rewritten and members of the public requesting documents be directed to the administrator to review past Task Force decisions. by way of an annotated ordinance.

Motion to reinsert "or any person having custody" in paragraph (b). (Erica/Comstock)

Public Comment: None

Ayes: Knee, Comstock, Craven

Noes: Pilpel

Sec. 67.39 (a) Hearing and Orders of Determination

Public Comment: Mr. Crossman wanted to know if undisclosable records could be subpoenaed. He also said the language should be changed to cover any violation of the ordinance.

Motion to reorganize the section. (Pilpel/Comstock)

Comstock withdraws motion.

Motion to call question. (Comstock/Knee)

Ayes: Comstock

Noes: Knee, Craven, Pilpel

Discussion continues.

Motion to replace "the public meetings or public records provisions of the" with "this" in paragraph (a). (Craven/Comstock)

Ayes: Knee, Comstock, Craven

Noes: Pilpel

Sec. 67.39 (b)

Motion to strike out "other" in first line of paragraph (b) (Erica)

Without objection

Public Comment: Mr. Grossman said the City Charter can be amended in a lot of ways including prohibiting the commission from doing something it wants to do. Mr. Crossman said to allow for in camera review otherwise it does not solve anything.

Motion to strike out the City Charter in paragraph (b). (Comstock/Knee)

Public Comment: Mr. Crossman recommended the motion.

Ayes: Knee, Comstock, Craven

Noes: Pilpel

Sec. 67.39 (c)

No changes

Sec. 67.39 (d)

Motion to replace paragraph with "The Order of Determination shall be issued to the complainant and the respondent and shall be posted on the Commission's website." (Pilpel/Comstock)

Public Comment: Mr. Crossman was against removing the timing mentioned in the section.

Ayes: Comstock, Craven, Pilpel

Noes: Knee

Motion to move first 2 sentences of (a) to (d). (Pilpel)

Motion failed because of lack of second

Motion to move last section in (d) and insert it at the end of (a). (Craven/Comstock)

Public Comment: None

Without objection.

Sec. 67.40 Administrative Enforcement Provisions

Public Comment: Mr. Crossman suggested including timing in paragraph (a) and expressed concern that the section allows for enforcement of other provisions of the Sunshine Ordinance that are not related to public records. He also said the Ordinance should provide for change in anti-Sunshine department policies. Mr. Grossman said paragraph (g) is not clear and needs to be rewritten.

Motion to start paragraphs (b) and (c) with "Upon issuing an Order of Determination." (Knee)

Without objection.

Motion to adopt the section. (Erica/

Public Comment: None

Ayes: Knee, Comstock, Craven

Excused: Pilpel

Sec. 67.41 Willful Failure Shall Be Official Misconduct

Public Comment: Mr. Grossman said it is difficult to find an office or entity guilty of official misconduct. Mr. Crossman said he wanted the Task Force to be aware that the City Attorney's Good Government Guide says the Ethics Commission can hear complaints against elected officials and department heads and not against other City employees.

Motion to adopt. (Comstock/Knee)

Without objection

Sec. 67.42 (a) Referrals and Enforcement by Ethics Commission

Public Comment: Mr. Crossman said he hopes this section will be effective and related an event in Florida where an entire governing body was found to be in violation of their open government laws and fined. Mr. Grossman said this section allows the Ethics Commission to question the Commission's referrals because the Charter overrules the Ordinance.

Motion to add a new paragraph (v) to read as "The Sunshine Commission may, in a referral of a finding of official misconduct, recommend the amount of fine that may be imposed" and renumber the following paragraphs.

Public Comment: Mr. Crossman said the Task Force already has the authority to recommend a fine.

Ayes: Knee, Comstock, Craven

Excused: Pilpel

67.42 (b)

Motion to approve section. (Comstock/Knee)

Ayes: Knee, Comstock, Craven

Excused: Pilpel

Sec. 67.43 Public Enforcement Provisions

Public Comment: None

Motion to approve section. (Comstock/Knee)

Ayes: Knee, Comstock, Craven

Excused: Pilpel

Member Craven said the committee needs to address three significant parts.

- Look at the entire proposals and check for consistency and see if any section or paragraph has been overlooked.
- Review prior amendments that were submitted in conjunction with Supervisor Chris Daly's July 12, 2004, memorandum that included suggestions.
- Start work on the annotations.

The administrator, she said, also has to look at provisions that were adopted or considered by the full Task Force, accept the changes to get a clean document, and redline it against the existing ordinance.

The same also has to be done, she added, to what was passed by the Compliance and Amendments Committee but have yet to be adopted by the Task Force.

Article 3, §67.20 based on Member Craven's suggestion was discussed and the Administrator recorded recommended amendments.

Motion to accept changes and adjustments. (Craven/Comstock)

Public Comment: Mr. Crossman said he was pleased with the changes.

Adjournment: The meeting was adjourned at 7:30 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force



Sunshine Ordinance Task Force



City Hall
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<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Wednesday, June 11, 2008
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock, Vice-Chair; Erica Craven, David Pilpel, Harrison Sheppard (ex-officio, non-voting)

Notes: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Members of the public are encouraged to fill out speaker cards but may remain anonymous. Public comment on items not listed on the agenda (Item #6) will be taken at 5:00 p.m. or as soon thereafter as possible.

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Call to Order

Roll Call

Agenda Changes

JUN - 9 2008

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1. Approval of minutes of May 14, 2008. (action item) (attachment)
2. Approval of minutes of June 4, 2008, special meeting. (action item) (attachment)
3. Discussion re: developing recommendations of the document retention policy of the Board of Supervisors. (discussion and possible action item) (no attachment)
4. Possible amendments to Article IV of the Sunshine Ordinance. (discussion and possible action item) (attachment)
5. Review of proposed amendments to Articles I and II of the Sunshine Ordinance, as time permits. (discussion and possible action item) (attachment)
6. Administrator's Report. (attachment)
7. Public Comment on items not listed on the agenda. Public comment will be held at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
8. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)

Adjournment

Next regularly scheduled meeting, Wednesday, July 9, 2008.

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |
| <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. Matter is with the Task Force for discussion and questions. | |
| 4. Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. Matter is with the Task Force for motion and deliberation. | |
| 6. Public comment <i>(Excluding Complainant & City response, witnesses)</i> | Up to 3 minutes each |
| 7. Vote by Task Force <i>(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)</i> | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

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June 11
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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

Wednesday, June 11, 2008

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock Vice-Chair; Kristin Chu, Erica Craven, David Pilpel, Harrison Sheppard (ex-officio, non-voting)

Call to Order 4:10 P.M.

Roll Call Present: Knee, Comstock, Chu, Pilpel

Absent: Sheppard

Excused: Craven

Deputy City Attorney: Rosa Sanchez

Administrator: Frank Darby

Clerk: Chris Rustom

1. Approval of minutes of May 14, 2008.
Public Comment: None
Motion to approve the minutes of May 14, 2008. (Comstock / Chu)
Ayes: Knee, Comstock, Chu
Excused: Craven, Pilpel

2. Approval of minutes of June 4, 2008.
Public Comment: None
Motion to approve the minutes of June 4, 2008. (Comstock / Chu)
Ayes: Knee, Comstock, Chu
Excused: Craven, Pilpel

3. Discussion re: developing recommendations of the document retention policy of the Board of Supervisors.
Speakers: Kimo Crossman said the issue is not about the retention policy of the Board of Supervisors but of the Sunshine Ordinance Task Force. He cited cases in San Jose, Missouri, North Carolina and Washington, D.C., where the issue of retaining email records is gaining prominence. He urged the Task Force to adopt its own two-year preservation policy for emails and other electronic documents.
Member Comstock said he had no comment on the BOS retention policy.
Member Pilpel said if the Task Force does not have the power to change the Board of Supervisors' policy, it could certainly urge the Clerk of the Board to make changes in a manner the Task Force deems appropriate. He also wanted to separate the Sunshine Ordinance Task Force destruction and retention policy from the original that covered all departments under the Clerk of the Board.
Chair Knee continued the discussion to the July 9, 2008, meeting and requested that the Board of Supervisors retention and destruction policy be rearranged and categorized by department.
Member Pilpel requested the presence of Records and Information Manager Frank Darby at the next Compliance and Amendments Committee meeting and added that he would welcome information from Board of Supervisors management on the possibility of extending the retention period beyond what is required by law.
Continued without objection

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4. Possible amendments to Article IV of the Sunshine Ordinance.
- Chair Knee said since the Task Force had forwarded the proposed ordinance there was no need to take any action on the item. However, he encouraged members of the Task Force and the public to forward their views to Supervisor Ross Mirkarimi.
- Public Comment:: Kimo Crossman said he would be sending his comments to the supervisor and requested notice of passive meetings between the supervisor and the City Attorney on Sunshine matters because he would like to be in attendance. He also requested the discussions be recorded for the benefit of those who are unable to attend. On the proposed ordinance, he said, it was important to keep asking for funds that would allow the Task Force to hire outside counsel to enforce the ordinance rather than rely on the Ethics Commission.
- Member Pilpel said the meeting should not be structured in such a way that it would turn into a seriatim meeting.
- DCA Rosa Sanchez , responding to Member Comstock's request, said she would research if the meetings could be recorded.
- Chair Knee said he would contact Task Force Chairwoman Kristin Chu to let her know that the committee discussed and was in favor of recording the meetings.
5. Review of proposed amendments to Articles I and II of the Sunshine Ordinance, as time permits.
- Public Comment: Kimo Crossman said he was unhappy with a section of the draft ordinance that deals with elected officials and groups regarding passive meetings. He said he has filed a complaint against the Task Force and would pursue it if the Task Force did not strengthen the language. He also said, the meeting could be recorded because the Task Force is the client in any discussion involving the City Attorney.
- Member Sue Cauthen, speaking at the podium, said many bodies advising the Board of Supervisors do not have a website. She wanted to add a subsection in the proposed ordinance to read: "The appointing authority shall create a domain for policy bodies on its website."
6. Administrator's report.
- Mr. Rustom said Mr. Crossman had filed two more complaints that needed to be added to the Complaint Log. One complaint was against the Ethics Commission and the other was against the City Attorney's Office.
- Public Comment: Mr. Crossman said he was concerned the Task Force was not digitally recording their meetings because it was now a mandate following its approval by the supervisors following Mayor Newsom's veto. He said it was technically possible because he had seen Records Manager Frank Darby record on a laptop.
- Chair Knee asked Mr. Rustom to address the issue.
- Mr. Rustom said Mr. Darby had addressed the issue during the special Compliance and Amendments Committee meeting held a few days ago, but basically the holdup was because of the budget process. Chair Knee suggested that the Task Force communicate their concern on the matter. Chair Knee also instructed Mr. Rustom to contact Chairwoman Chu and request that this item be placed on the agenda for the next regular Task Force meeting.
- Member Pilpel reminded the committee that the item was continued during the last regular Task Force meeting. He also asked that the deputy city attorney advise the Task Force at its next regular meeting on the implementation process.
- Mr. Pilpel also said adding the nature of the complaint to the Complaint and Referral Log would be helpful. A follow up letter to the Attorney General and District Attorney would also help, he said.
7. Public comment on items not listed on the agenda.
- Public Speakers: Kimo Crossman said Chairwoman Chu should be attending the Compliance and Amendments Committee meetings as it was a very active panel. He also said the purging of emails after 90 days is shocking and should be changed.

8. Announcements, questions and future agenda items from CAC members
Member Comstock commended the committee for its work on the proposed ordinance. Chair Knee added among others, former member Bruce Wolfe to the congratulatory list.

Adjournment: The meeting was adjourned at 7:20 p.m.

This meeting has been audio-recorded and is on file in the office of the Sunshine Ordinance Task Force



Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Wednesday, July 9, 2008
4:00 p.m., City Hall, Room 406

JUL - 7 2008

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Committee Members: Richard Knee, Chair; Kristin Chu, Erica Craven, David Pilpel, Harrison Sheppard (ex-officio, non-voting)

Notes: Public comment on items not listed on the agenda (Item #4) will be taken at 5:00 p.m. or as soon thereafter as possible. Members of the public who address the Committee are encouraged to fill out speaker cards but may remain anonymous.

**Call to Order
Roll Call
Agenda Changes**

1. Approval of minutes of June 11, 2008. (action item) (attachment)
2. Discussion re: developing recommendations of the document retention policy of the Board of Supervisors. (discussion and possible action item) (attachment)
3. Administrator's Report. (attachment)
4. Public Comment on items not listed on the agenda. Public comment will be held at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
5. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)

Adjournment Next regularly scheduled meeting, Wednesday, August 13, 2008.

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| | <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. | Matter is with the Task Force for discussion and questions. | |
| 4. | Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. | Matter is with the Task Force for motion and deliberation. | |
| 6. | Public comment (<i>Excluding Complainant & City response, witnesses</i>) | Up to 3 minutes each |
| 7. | Vote by Task Force (<i>Public comment at discretion of chair on new motion and/or on new motion if vote fails.</i>) | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

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July 9

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SAN FRANCISCO
PUBLIC LIBRARY**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE****MINUTES****Wednesday, July 9, 2008****4:00 p.m., City Hall, Room 406****Committee Members: Richard Knee, Chair; Erica Craven, David Pilpel, Harrison Sheppard
(ex-officio, non-voting)****Call to Order 4:13 P.M.****Roll Call Present: Knee, Craven, Pilpel****Absent: Sheppard****Deputy City Attorney: Ernie Llorente****Clerk: Chris Rustom**

1. Approval of minutes of June 11, 2008.

Public Comment: Kim Crossman thanked the Administrator for capturing his comments regarding the purging of emails.

Motion to approve the minutes of June 11, 2008. (Pilpel / Chu)

Ayes: Knee, Craven, Pilpel

2. Discussion re: developing recommendations of the document retention policy of the Board of Supervisors.

Public Comment: Mr. Crossman said he was very concerned about certain sections of the COB's records and retention policy. He said a lawsuit was being filed in North Carolina that deals with similar issues especially the destruction and deletion of emails. He offered members a copy of a "modern" record retention policy and was told to forward it to the Administrator.

Member Pilpel wanted to know the volume of documents the administrators had accumulated over the years. Mr. Rustom said a small storage next to Frank Darby's office was full and several boxes were stacked outside his office. On SOTF records retention, Mr. Rustom said he lacked the experience but the Clerk's office procedure was to review the documents and return it to storage in boxes marked "for destruction" and the person responsible was Mr. Darby as Records and Information Manager.

Member Pilpel said his concern was the retention of Task Force records and did not agree with suggestions that all records be retained forever.

Chair Knee wanted clarification as to why certain numbers were added to entries in the third column from the left on page 20 of the packet. Mr. Rustom said the reason for these numbers was in the last column.

Member Craven said the document had a significant omission because it does not distinguish between electronic and paper records. A modern policy on retention is necessary, she said.

Chair Knee volunteered to contact several major organizations for relevant source material.

Member Craven added that the committee needs to review the State code and the SF Admin Code and build on it. These documents, she suggested, be part of the packet for proper discussion.

DCA Llorente said the main focus should be on electronic records as many departments print emails for retention and erase the electronic record, which contains unseen data.

Member Pilpel said topics to be discussed should include
 - Reviewing national models and best practices
 - Records retention periods that exceed the minimum required
 - Electronic records and issues associated with it.
 - Emails associated with pending legislative files

Member Craven suggested DCA Llorente to find and add to the packet sections of the retention policy at the city and state levels and the policies mentioned in the Good Government Guide.

Public Comment: Mr Crossman said his research showed general retention periods for cities was two years unless the Board of Supervisors wanted to change it. San Jose was working toward retaining electronic documents for 10 years for a department head and five years for a lower level employee. The State of Missouri adopted seven years for all government employees based on IRS requirements

Member Craven wanted Mr Crossman's research placed in the packet.

Member Pipel wanted to know the origins of Chapter 5: Electronic Mail Policy and if this section was in the Employee Handbook or was it specifically for the Board of Supervisors.

Member Craven wanted to know what was in Chapter 4 and if there was a Chapter 6. She requested the Clerk to always include the title page and table of content in the future.

Member Pipel then asked DAC Llorente if there was a connection between Index of Records and Retention of Records.

Public Comment: Mr. Crossman said the Index of Records and Retention of Records are linked because the index includes periods of retention

Member Pipel said the Committee should look at the District Attorney's record keeping policies.

Continued to August 6, 2008, meeting.

Without objection.

3. Administrator's Report.

Public Comment: Mr Crossman told the committee that he had withdrawn three complaints and would be willing to work with the Task Force on reducing its workload. Mr. Crossman, while expressed his deep concern that the meeting was not being digitally recorded, said he would be filing a complaint the Task Force because it is in violation of the law.

Member Pipel said he was pleased with the log because it contains a brief description of the complaint.

Mr Ruston said there were six complaints to be heard by the Task Force on July 22, 2008, and two more complaints had been file since the Complaint Log was created.

He also said Peter Warfield's two complaints have not been acted upon because the Task Force had not given him directions at its last meeting.

Continued without objection

4. Public comment on items not listed on the agenda.

Public Comment: Mr Crossman said JFK Public Interest in Law (Berkeley) is starting up on different topics and would like members of the Task Force to hold an open government session. He also added that the Task Force should police itself and should not require his participation in the digital recording

5. Announcements, questions and future agenda items from CAC members.

Member Craven said members should have specific proposals on the retention policy when they meet August 6, 2008, because all background materials will be in the packet.

Adjournment: The meeting was adjourned at 4:55 p.m.

This meeting has been audio-recorded and is on file in the office of the Sunshine Ordinance Task Force

August 13, 2008

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

**Wednesday, August 13, 2008
4:00 p.m., City Hall, Room 406**

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Committee Members: Richard Knee, Chair; Erica Craven, Kristin Chu, David Pilpel

Notes: Public comment on items not listed on the agenda (Item #10) will be taken at 5:00 p.m. or as soon thereafter as possible. Members of the public who address the Committee are encouraged to fill out speaker cards but may remain anonymous.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of July 9, 2008. (action item) (attachment)
2. Continued discussion re: developing recommendations of the document retention policy of the Board of Supervisors. (discussion and possible action item) (attachment)
 - a. Discussion re: developing recommendations of the document retention policy for City departments. (discussion and possible action item) (attachment)
3. 08023 Hearing of the status of the July 22, 2008, Order of Determination of Anonymous Tenants against the Planning Department (discussion and possible action item) (attachment)
4. 08029 Hearing of the status of the July 22, 2008, Order of Determination of Barry Taranto against the Taxi Commission. (discussion and possible action item) (attachment)
5. 08031 Hearing of the status of the July 22, 2008, Order of Determination of Kimo Crossman against the Ethics Commission. (discussion and possible action item) (attachment)
6. 08032 Hearing of the status of the July 22, 2008, Order of Determination of Kimo Crossman against the City Attorney's Office. (discussion and possible action item) (attachment)
7. Discussion and possible action on the status of the amendments and next steps the Task Force will take with respect to the amendments. (discussion and possible action item) (no attachment)
8. Administrator's Report. (attachment)
9. Public Comment on items not listed on the agenda. Public comment will be held at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
10. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)

Adjournment Next regularly scheduled meeting, Wednesday, September 10, 2008.

THE AGENDA PACKET IS AVAILABLE FOR REVIEW MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244
SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be part of the official public record. (Section 67.7-1 (c))

1. Complainant presents his/her facts and evidence 5 minutes
Other parties of Complainant present facts and evidence Up to 3 minutes each
2. City responds 5 minutes
Other parties of City respond Up to 3 minutes each
(Above total speaking times for Complainant and City to be the same.)
3. Matter is with the Task Force for discussion and questions.
4. Respondent and Complainant presents clarification/rebuttal 3 minutes
5. Matter is with the Task Force for motion and deliberation.
6. Public comment (Excluding Complainant & City response, witnesses) Up to 3 minutes each
7. Vote by Task Force (Public comment at discretion of chair on new motion and/or on new motion if vote fails.)

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

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contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); website: sfgov.org/ethics.

August 13, 2008

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

Wednesday, August 13, 2008
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, chair, Erica Craven, David Pilpel, Kristin Chu

Call to Order 4:01 P.M.

Roll Call Present: Knee, Pilpel, Chu

Excused: Craven

Deputy City Attorney: Ernie Llorente

Clerk: Chris Rustom

Agenda changes: Items were heard in this order: 1, 3, 5, 4, 9, 6, 2, 7, 8, 10

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Chair Knee announced that the absence of Member Craven was because "she is a brand-new mommy." She gave birth to 9-pound, 10-ounce Oscar Craven-Green, last week.

1. Approval of minutes of July 9, 2008.

Public Comment: None

Motion to approve the minutes of July 9, 2008. (Pilpel / Chu)

Ayes: Knee, Pilpel, Chu

Excused: Craven

2. Continued discussion re developing recommendations of the document-retention policy of the Board of Supervisors.

Public comment: Kimo Crossman said he has submitted documents to help the committee with its discussions on the subject and had held meetings with certain records managers who suggested minor tweaks to the policy he had created and would forward the document to the committee before its next meeting. It would basically say, keep any record that is created, scan any paper documents and send all electronic documents to the Google groups.

Continued to September 10, 2008. Without objection.

Chair Knee thanked Mr Crossman for providing the committee with "a wealth of information" relevant to the topic. He also welcomed any member of the public or committee to participate in the research.

He also said his efforts were recorded in his report distributed at the meeting.

- a Discussion re developing recommendations of the document-retention policy for City departments.

Continued to September 10, 2008. Without objection.

3. 08023 Hearing on the status of the July 22, 2008, Order of Determination of Anonymous Tenants against the Planning Department.

Anonymous Tenants, the Complainant, said he had received hundreds of electronic documents from the Planning Department but the file was incomplete. He also said the department refused to provide the file in PDF format. A review of the file also revealed that certain e-mails were removed without explanation, he said.

In addition:

- attachments in e-mails were not provided.
- e-mails prove there was correspondence between expeditor and planner.
- information not provided incrementally
- assistance was not provided in document identification
- no information on meetings was provided.

Respondent Scott Sanchez of the Planning Department said he and Sara Vellevé made themselves available when the Complainants came to review the file but were not called. He said he does not know how to address the issue of providing documents that do not exist. He also requested that the Complainants send their requests to Linda Avery, who could coordinate the department's response. The Complainants also submitted a list of documents that they wanted.

Linda Avery said she is the custodian of records for the Planning Department and would be willing the answer any question the committee had. She added that the department receives an inordinate amount of requests and believed staff responds in good faith. Regarding the current complaint, she said she was going to treat it like a litigation issue. She would ask for all documents related to this issue, compile it, ask the City Attorney to see if there are documents that need to be withheld or redacted, create a table of contents and then match it with the Complainants' list and note what exists and what does not.

Public comment: Kimo Crossman suggested the committee continue the matter for a month and ask the parties to report back next month. He also suggested records to be produced daily on an incremental basis. Allen Grossman said the department, from his experience, has a record-keeping problem. A request he made was sent to several people and he was finally told it would take weeks because the department did not have a data base. He also said he was concerned by Ms. Avery's process because the City Attorney would be unnecessarily redacting documents.

Motion to continue to next meeting (Pipel / Knee)

Chair Knee said he seconded the motion only for discussion purposes.

The matter was continued to September 10, 2008. Without objection.

4. 08029

Hearing of the status of the July 22, 2008, Order of Determination of Barry Taranto against the Taxi Commission.

Respondent Jordanna Thigpen of the Taxi Commission said Commission Chair Paul Gillespie is back to the practice of taking speaker cards and likes to hold several meetings on the same topic. She said she is working toward having the full commission not revisit issues worked on the subcommittee level. That would result in more speaking time for the public at the full commission level, she said. Time management was an issue and she asked for guidance.

Member Pipel suggested notifying members of the public before the meeting that the commission is very interested in hearing matters on policy and not personal issues.

Chair Knee read Section 67.15(c) and said if there was enormous interest in a subject, the chair could ask opposing sides to select a representative and give them a specified number of minutes to present their case.

In summation, Thigpen said she was looking at what other committees and boards were doing and would discuss the issue with Mr. Gillespie.

Member Chu suggested discussing the issue with the City Attorney assigned to the Taxi Commission.

Public comment: Kimo Crossman said DCA Paul Zarefsky has said that he would be highly suspicious of one-minute public comment periods because it was not sufficient time to express one's views. Supervisor Daly, he said, was criticized in a local newspaper for holding a one-minute public comment session recently. He said the commission should hold more subcommittee meetings at different venues, ask for written comment, ask the public not to use their full allocated time, not to restate what others have said and collate responses.

No motion was made.

5. 08031 Hearing on the status of the July 22, 2008, Order of Determination of Kimo Crossman against the Ethics Commission.
- Continued to September 10, 2008, meeting because Chair Knee would have to recuse himself and with Member Craven excused, there would be a lack of quorum.
6. 08032 Hearing of the status of the July 22, 2008, Order of Determination of Kimo Crossman against the City Attorney's Office.
- Complainant Kimo Crossman said Mr. Zarefsky's letter is about rearguing the case and adding more legislative history. The letter also says he's not coming to the hearing, which is a violation, he said. Departments need to come and see their mistakes, he added. He requested a finding of willful failure and official misconduct.
- Allen Grossman said Mr. Zarefsky's absence is a violation of the Public Records Act and the Ordinance and a finding of official misconduct and the case referred to the Ethics Commission and the State Attorney General. Mr. Zarefsky's decision not to be present also was a display of disrespect to the committee, he said. Mr. Grossman also said the City Attorney's guidelines for issuing opinions that is posted on the website was a breach of legal ethics because it was foisting an opinion on the city and its citizens and suggested there be some comment in the recommendation that goes back to the Task Force.
- Respondent not present.
- Member Pilpel wanted to explore the fact that the opinion of the City Attorney and the findings of the Task Force were always at odds but Chair Knee reminded him that the hearing was only on whether the Order of Determination had been met.
- In rebuttal, Mr. Crossman said the Task Force was created to interpret the Ordinance, advise departments on how to follow it and make referrals for any violation. And, he said, if Mr. Zarefsky does not want to follow it, he pays the consequences for official misconduct.
- Motion finding that the department failed to provide the requested documents in Word format as ordered in the Task Force's August 4, 2008, Order of Determination and that no reasonable explanation was provided. The matter is referred back to the full Task Force for further action. (Chu / Knee)
- Member Pilpel was against the motion because he did not believe the Order of Determination was correct and agreed in part with the City Attorney's position that it was a legal matter and not a question of interpretation.
- Chair Knee reminded Member Pilpel that the only question before the committee was whether the department met the Order of Determination.
- Motion to continue (Pilpel /)
- No second
- Roll call on original motion
- Ayes: Knee, Chu
- Noes: Pilpel
- Excused: Craven
- Motion fails.
- Chair Knee requested Task Force Chair Chu to calendar this item for August 26, 2008.
- Member Pilpel noted that there was no recommendation from the committee.
7. Discussion and possible action on the status of the amendments and next steps the Task Force will take with respect to the amendments.
- Chair Knee wanted to continue the item until Member Craven rejoins the committee.
- Public comment: Kimo Crossman said the Task Force should ask the Board of Supervisors to adopt the non-controversial elements in the amendments. The Task Force should take advantage of the number of progressive supervisors on the board, he said. He suggested asking Member Craven, Allen Grossman or

any other interested attorney to scan through the amendments for inconsistencies. Departments need to be involved in the process, he added.

Member Chu said the 2009 ballot might not occur because of Supervisor Jake McGoldrick's current proposition that mandates elections be held only in even-numbered years. She said a plan needs to be formulated

DCA Llorente said the issue that needs to be looked at is does it go to the voters or to the Board. If the Task Force is changing the Ordinance substantively, it needs to go to the voters and the supervisors may pass a measure only if it expands on an existing provision. He noted that even if the Task Force sent the amendments to the City Attorney's Office, the government team would look at it As To Form only when requested by the supervisors.

Member Chu reminded the committee that the McGoldrick proposition could still fail.

Further discussion included having Doug Comstock and Bruce Brugmann appear before the Task Force.

Chair Knee continued the matter to the September 10, 2008, meeting. Without objection.

8. Administrator's Report.

Asst. Administrator Chris Ruston said the Complaint Log needed to be updated because two complainants, Kimo Crossman and Charles Pitts, had withdrawn their complaints after the document was created.

Member Pilpel continued requesting an additional entry on the Complaint Log which stated the nature of the complaint.

9. Public comment on items not listed on the agenda.

Kimo Crossman said he had two issues. The first was that he hoped the meeting was being digitally recorded and the file would be posted on the City website. The second was the role of the Committee whereas it had used the Orders of Determination to get the records complainants wanted or have it sent it back to the Task Force for referral. And if the Orders of Determination have to be comprehensive, the document has to be longer than it currently is because a simple phrase could have a lot of different meanings.

10. Announcements, questions and future agenda items from CAC members.

Chair Knee reminded those present that the California First Amendment Coalition was having its annual First Amendment and Open Government Assembly on October 17 & 18, 2008, at the UC Berkeley Graduate School of Journalism.

Kimo Crossman said the Task Force needs to contact Mr. Comstock immediately and aim for the 2009 election to be ahead of the game.

Adjournment: The meeting was adjourned at 6:07 p.m.

Next regular meeting: Wednesday, September 10, 2008.

This meeting has been audio-recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Wednesday, September 10, 2008
4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee (Chair); Erica Craven, Kristin Chu, David Pilpel

Notes: Public comment on items not listed on the agenda (Item #10) will be taken at 5:00 p.m. or as soon thereafter as possible. Members of the public who address the Committee are encouraged to fill out speaker cards but may remain anonymous.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of August 13, 2008. (action item) (attachment)
2. Continued discussion re: developing recommendations of the document retention policy of the Board of Supervisors. (discussion and possible action item) (attachment)
 - a. Discussion re: developing recommendations of the document retention policy for City departments. (discussion and possible action item) (attachment)
3. 08023 Hearing of the status of the July 22, 2008, Order of Determination of Anonymous Tenants against the Planning Department (discussion and possible action item) (attachment)
4. 08024 Hearing of the status of the July 22, 2008, Order of Determination of Michael Addario against the Arts Commission. (discussion and possible action item) (attachment)
5. 08031 Hearing of the status of the July 22, 2008, Order of Determination of Kimo Crossman against the Ethics Commission. (discussion and possible action item) (attachment)
6. 08038 Hearing of the status of the August 26, 2008, Order of Determination of Kin Tso against the Animal Welfare Commission. (discussion and possible action item) (attachment)
7. Discussion and possible action on the status of the amendments and next steps the Task Force will take with respect to the amendments. (discussion and possible action item) (no attachment)
8. Administrator's Report. (attachment)

9. Public Comment on items not listed on the agenda. Public comment will be held at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
10. Announcements, questions, and future agenda items from Committee members. (discussion item) (no attachment)

Adjournment

Next regularly scheduled meeting, Wednesday, October 8, 2008.

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (Section 67.16)

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- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| | <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. | Matter is with the Task Force for discussion and questions. | |
| 4. | Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. | Matter is with the Task Force for motion and deliberation. | |
| 6. | Public comment <i>(Excluding Complainant & City response, witnesses)</i> | Up to 3 minutes each |
| 7. | Vote by Task Force <i>(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)</i> | |

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September 10, 2008

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

Wednesday, September 10, 2008

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee (Chair); Erica Craven, David Pilpel, Kristin Chu,

Call to Order: 4:08 p.m.

Roll Call: Present: Knee, Craven, Pilpel, Chu

Deputy City Attorney: Ernie Llorente

Clerk: Chris Rustom

Agenda Changes: Items were heard in this order: 1, 3, 5, 6, 9, 4, 2, 7, 8, 10

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1. Approval of minutes of August 13, 2008.
Public Comment: None
Motion to approve minutes of August 13, 2008. (Pilpel / Chu)
Ayes: Knee, Craven, Pilpel, Chu
2. Continued discussion re developing recommendations on the document retention policy of the Board of Supervisors.
Chair Knee said his research was continuing and agreed to create a document based on the present practices of the Clerk of the Board.
Member Pilpel suggested merging Items 2 and 2a.
Chair Knee agreed.
Item to read : Recommendations on the document retention policy of City departments and the Board of Supervisors
Public comment: None
 - a. Discussion re developing recommendations on the document retention policy for City departments.
Merged with Item 2
3. 08023 Hearing on the status of the July 22, 2008, Order of Determination of Anonymous Tenants vs. Planning Department
Complainant Anonymous Tenants said the department had provided him with more documents including a file that contained over 800 emails after the Order of Determination was issued. The emails he said were not in pdf format, some were blanks and a lot were duplicates. And because of that he requested a continuous. He also said the department needs to provide more documents, including a telephone log, and continue assist in identifying documents.
Respondent Linda Avery of the Planning Commission said the department followed procedure approved at the last CAC meeting that included listing and numbering documents. The department has met that requirement timely and had also met the complainant to discuss outstanding issues.
Planner Scott Sanchez said the electronic document is in searchable pdf format whereas the complainant had asked for the emails be printed and scanned making it non-searchable, duplicate emails were unavoidable because multiple planners would forward or respond to certain documents and requests, the permit was provided in the same shape and from that was on file, and the telephone log was not retained, meaning, nobody knows what happened to it.

Member Pilpel wanted a copy of the Planning Department's transmittal to Anonymous Tenants placed in the SOTF file.

The respondent did not rebut.

The complainant, in rebuttal, said among others, his understanding of a pdf file is different from Mr Sanchez and that it was very difficult to read and was one of the reasons for requesting a continuance.

Public Comment: Kimo Crossman said the day's meeting has not resolved a lot of issues brought forward by the complainant, the department needs to be helpful in identifying documents and suggested a continuance. He also said he was concerned that departments were not being told to provide a written response in five days. He asked that the Task Force direct the administrator to include the language in all Orders of Determination. Ray Hartz congratulated department representatives for their presence and said the department needs to say exactly what happened to the telephone log, giving half of a full document is disingenuous and a department must produce a requested document and not opine on its relevancy to other documents requested by the same requester.

Member Craven lauded the complainant's advocacy and tenacity but said she believed all documents had been produced. She also praised the department for creating a list of documents that were provided to the complainant, but added that she would like the department to improve on their records management procedures and better response times. She said there was no need for further action.

Member Pilpel said the OD was written without the five-day requirement because Task Force members wanted to get the parties together and resolve the issue. He also said no further action was needed.

No further action taken.

4. 08024

Hearing on the status of the July 22, 2008, Order of Determination of Michael Addario vs. Arts Commission.

Respondent Howard Lazar had emailed the Task Force and said he would not be in attendance because the Arts Commission meeting coincides with the CAC's. Chair Knee said that was unfortunate because it deprives the committee the chance to question Mr Lazar should the need arise. The chair without objection ruled that the committee should proceed hearing the case.

Complainant Michael Addario said he attended the San Francisco Street Artists meeting which respondent Howard Lazar mentioned and because the meeting ended at 5 p.m. Mr Lazar could have attended the CAC meeting as well. He said the Arts Commission meeting rules have been compromised and felt it was impossible to repair it. He said nobody wanted the meeting schedule changed from monthly to bi-monthly except Mr Louis Cancel, the director of Cultural Affairs. The item was agendaized and all members were allowed to speak, but the vote was 2-1 in favor even though everybody who spoke was in opposition.

Member Craven said the meeting was a procedural issue and not within the jurisdiction of the Task Force.

The TF's concern, she said, was whether members of the Arts Commission knew what is and how not to hold a seriattim meeting. She suggested sending a letter to Mr Lazar.

Mr Addario told Chair Knee that he did not know of any additional seriattim meeting occurring since the Order of Determination was issued.

Mr Addario in summary said a letter should be sent to all the members because they have shown a disrespect to the CAC by walking out of the last meeting and have refused to attend the current meeting. He also would want the commission members attend the SOTF training.

Chair knee agreed to send a letter to Howard Lazar, program director, PJ Johnston, president of the Arts Commission, and Alexander Lloyd, chair of committee, asking them what they've done on training and how they hope to avoid seriattim meetings in the future. The letter was also to note that the commission was not present at the meetings. A copy of the letter was to be sent to Mr Addario, the complainant

Public Comment: Ray Hartz said there is a fine line between aggressive and assertive and the committee needs to be assertive. Many times, he said, the city doesn't show up at meetings and the committee doesn't do anything because he thinks members will get the non-response they get from the EC. Doing that lets the citizens bear the burden, he said. He said in his case against the city he attended all four meetings and the city was not present at any. The non-presence of departments at meetings is a show of disrespect to residents of San Francisco, he added. Mr Crossman's comment on Member Pilpel is not a personal attack, he said, but stating the fact that he was going to vote in favor of the city 90 percent of the time regardless of the facts. Looking at the list of referrals, he questioned the purpose of the SOTF. He also said he has visited

the SOTF website twice this year and asked why commissioners are not required to brush up on Sunshine requirements.

No further action.

5. 08031

Hearing on the status of the July 22, 2008, Order of Determination of Kimo Crossman vs. Ethics Commission.

Chair Knee recused himself for reasons stated at the August Task Force meeting. He named Member Craven as acting chair.

Complainant Kimo Crossman said there was a problem with an OD that doesn't require a five-day response, which is not for producing records but a response from the department to say what it is going to do to comply with the OD. The EC has not produced the document in pdf format and the CAC was not the place to reargue the case. He urged a finding of non-compliance and send the matter back to the Task Force for referral to the Board of Supervisors for willful failure and official misconduct finding. He recalled that the Clerk's Office also was found in violation and was now posting more records on line.

Respondent John St. Croix of the EC said the City Attorney has been clear and consistent on the issue. The law does not require departments to convert paper-only documents to electronic documents. The decisions of the Task Force and actions of the complainant have a chilling effect on departments, he said. Agencies willing to create a record as a courtesy, he added, are afraid that months later that act of generosity is going to be used against them and transformed into a policy even if it not feasible.

Acting Chair Craven said the Task Force has already found that where feasible and reasonable, the department has to comply if it has the resources to do so without any additional burden and cost. She noted that the Clerk's Office's scanning policy was a result of the CAC finding Frank Darby in violation.

Motion to refer the matter to the Task Force to determine which agency should undertake enforcement.
(Craven / Chu)

Member Pilpel said he agreed with Mr St Croix that it is not a legal requirement. He said the Task Force could ask and urge a department to do something but never compel. Past experience had shown, he added, that the EC referred enforcement to other agencies if it was a party to the case.

Public Comment: Ray Hartz said it appears that the agency does not want to provide the record in a usable format. A requestor's personality has no bearing on that person's record request – produce it or put it in writing why the document is not being produced. A look at the Referral Log showed the EC's position on the issues, he added. Allen Grossman said the day's discussion is a prime example of an orphan defense and that the EC is in total non-compliance of Sunshine laws. He could not find where it was written that the official need not comply because the City Attorney could overrule a Task Force finding. He said the issue at hand was whether the respondent complied or not. The EC has not provided the kind of courtesy offered by the Task Force, he added.

Chair Chu agreed.

6. 08038

Hearing on the status of the August 26, 2008, Order of Determination of Kin Tso against the Animal Welfare Commission.

Complainant Kin Tso said the case was about an Animal Welfare Commission meeting held June 10, 2008, regarding censoring speech, violation of the First Amendment and the abuse of power by Chairperson Sally Stephens. He said a group of people attended the meeting was told not to mention the private ASFSPCA group. The group found that was unacceptable because Section 42.1 of the Code does encourage the participation of various groups and entities.

Respondent Sally Stephens said she has a better understanding of the Sunshine Ordinance because she has watched the online training video, taken the self-test and had read the Good Government Guide with regards to meetings. She said she was compiling 10 to 15 questions related to real world situations and plans to invite a SOTF member to provide the answers. to help educate her commission. She noted that she was a Mac user and the Website video was in Windows format.

Member Pilpel offered his services and questioned both parties on agenda contents and meeting rules.

Member Craven said this was an unfortunate event and was pleased that the commission had taken it upon itself to educate themselves. She was hopefully it would not happen again.

Ms Stevens had nothing to rebut.

Mr Tso also did not.

Public Comment: Kim Crossman said the department should have been given five days to respond in writing and the requirement to be included in all further ODs.

No motion made.

7. Discussion on the status of proposed Sunshine Ordinance amendments and next steps the Task Force will take regarding submitting amendments to the voters.

Member Craven volunteered to review the proposed amendments and look for inconsistencies and issues that have been overlooked.

Clerk to email document to Member Craven.

Public Comment: None

8. Administrator's Report. (discussion only) (attachment)

The Assistant Administrator made the report.

Public Comment: None

9. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)

Speakers: Allen Grossman said during the August CAC meeting when Member Craven was absent a matter was voted 2-1 with Mr Pilpel voting in the minority. The chair then asked DCA Llorente for advice and was told it was substantive and therefore it required a majority of the committee. With three members present and one voting against, the motion failed. Following that meeting he sent two emails to Chair Knee and Member Chu and pointed out the reasons why the ruling was incorrect. He did not email Member Pilpel and only copied DCA Llorente. Task Force by-laws do not address voting at the committee level and a committee vote is not binding on the Task Force, he said. Committee votes are recommendations and there was no need for absolute majority. There would not be a referral if there was an absence, a member recused, or if Member Pilpel was on the committee, he said. Kim Crossman said the committee should not be fooled and confused by departments appearing at hearings with a stack of documents. Deference should be given to the complainant and allow them to work with the department. Departments have used the tactic to get the TF off its backs, he said. Mr Pilpel, he added, has been one of the worst aspects of the TF he has dealt with and doesn't know how the CAC member could live with himself. Chair Knee said personal attacks on members of the committee are inappropriate. Mr Crossman said Member Pilpel's votes are a discredit to the public and he was just voicing what various members of the TF had said to him in private. Member Pilpel, he said, is a perfect example of how open government can be destroyed from within. Ray Hartz said he would be attending every meeting till the middle of next year. He praised the committee for helping the public access records but said it could not also side with departments by postponing hearings because the city was not represented. He also said by looking at the Referral Log, the TF should announce that nothing will happen eventually because all referrals are not acted upon. He said the system was rigged and the TF a farce. Mr St Croix has made it very clear that the EC would not support the TF, he added.

10. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Member Craven requested a change in CAC meeting days because of a child care issue. She noted that CAC used to meet on Mondays but was moved it to Tuesdays because of former Task Force Chair Doug Comstock's schedule. Chair Knee noted that the meeting was moved to Monday because of a class Mr Comstock was attending. Mr Llorente said he also had a class on Monday.

Member Pilpel suggested agendaizing it for next month.

Chair Knee agreed.

Public Comment: None

Member Pilpel said he strongly believes the public could react to the actions of members but it needed to be done respectfully. He also appreciated the chair for exercising his discretion.

Adjournment: The Meeting was adjourned at 6:07 p.m.

Next regular meeting: Wednesday, October 8, 2008.

This meeting has been audio-recorded and is on file in the office of the Sunshine Ordinance Task Force



Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
AGENDA**

Wednesday, October 8, 2008
4:00 p.m., City Hall, Room 406

DOCUMENTS DEPT.

OCT - 7 2008

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Committee Members: Richard Knee (Chair); Erica Craven, Kristin Chu, David Pilpel

Notes: Public comment on items not listed on the agenda (Item #9) will be taken at 5:00 p.m. or as soon thereafter as possible. Members of the public who address the Committee are encouraged to fill out speaker cards but may remain anonymous.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of September 10, 2008, regular meeting. (discussion and possible action) (attachment)
2. 08024 Discussion on steps taken by the Arts Commission and the Street Artists Committee to ensure that both bodies avoid further serial meetings. (discussion and possible action) (attachment)
3. Continued discussion re developing recommendations on the document retention policy of City departments and Board of Supervisors. (discussion and possible action) (attachment)
4. Discussion on the status of proposed Sunshine Ordinance amendments and next steps the Task Force will take regarding submitting amendments to the voters. (discussion and possible action) (no attachment)
5. Discussion on moving Compliance and Amendments Committee's monthly meeting from second Wednesday of the month to second Monday of the month without change in time. (discussion and action item) (no attachment)
6. Administrator's Report. (discussion only) (attachment)
7. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
8. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting Wednesday, November 11, 2008.

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (*Section 67.16*)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be part of the official public record. (*Section 67.7-1 (c)*)

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| | <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. | Matter is with the Task Force for discussion and questions. | |
| 4. | Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. | Matter is with the Task Force for motion and deliberation. | |
| 6. | Public comment (<i>Excluding Complainant & City response, witnesses</i>) | Up to 3 minutes each |
| 7. | Vote by Task Force (<i>Public comment at discretion of chair on new motion and/or on new motion if vote fails.</i>) | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE: Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Administrator by mail to: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854; or by email at SOTF@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from the Administrator or by printing Chapter 67 of the San Francisco Administrative Code from the Internet, at URL: http://www.sfgov.org/site/sunshine_page.asp?id=34495

Lobbyist Registration & Reporting Requirements: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; website: sfgov.org/ethics.

October 8, 2008

Select Language ▼

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MINUTES**

**Wednesday, October 8, 2008
4:00 p.m., City Hall, Room 406**

Committee Members: Richard Knee (Chair), Erica Craven, Kristin Chu,

Call to Order: 4:07 p.m.

Roll Call: Present: Knee, Craven, Chu

Deputy City Attorney: Ernie Llorente

Clerk: Chris Rustom

Agenda Changes: Items were heard in this order: 1, 2, 3, 4, 7, 5, 6, 8, 7, 9

GOVERNMENT
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1. Chair Knee acknowledged the presence of recently-appointed Sunshine Ordinance Task Force member Doyle Johnson in the audience.
2. Approval of minutes of September 10, 2008, regular meeting.
Motion to approve minutes of September 10, 2008. (Craven / Chu)
Public Comment: None
On the motion:
Ayes: Knee, Craven, Chu
3. 08024 Discussion on steps taken by the Arts Commission and the Street Artists Committee to ensure that both bodies avoid further serialim meetings.
Respondent Howard Lazar said the Arts Commission had taken its Sunshine training on September 16, 2008, through the help of Deputy City Attorney Adine Verah, who specifically explained the need for public access to a discussion by city officers.
Chair Knee urged the commission to use the Task Force as a resource if it had questions in the future.
Complainant Mike Addario, a photographer and 5-year member of the Street Artists Program, read and submitted his response. (See Attachment A)
Member Craven congratulated Mr. Addario for his detailed research but said the Task Force was unable to provide the relief he sought. Only the courts, she said, had the authority to rescind a vote taken by a committee. On the other issues presented by Mr. Addario, she suggested he approach the Ethics Commission or the Board of Supervisors.
Public comment: Kimo Crossman said there was a remedy for various sections of the Ordinance by finding the department in willful failure and subsequently official misconduct to be investigated by the Ethics Commission under Section 67.34. He also said the Ordinance requires officers to file their paperwork with the Ethics Commission under Section 67.33. He also suggested sending a letter to the commission on its vote count.
The committee found no need for further action.
4. Continued discussion re developing recommendations on the document retention policy of City departments and the Board of Supervisors.
Chair Knee said his quest was continuing and what he had provided to the committee and public was a partial draft. (See Attachment B). He intended to complete the final draft in a few weeks and asked for input by the public.

Member Craven suggested to put the focus on electronic records and review what other jurisdictions are doing and also to decide what should or should not be covered by the retention schedule, should there be one.

Public Comment: Kimo Crossman said some electronic records might be over-voluminous and become an issue with storage, backup and recovery. He added that the Task Force should use itself as a test bed and refine it later for other departments. He also said the Board of Supervisors had to provide funding in order for SFGTV to be able to screen and caption meetings. Allen Grossman said an explanation of the codes mentioned in the Clerk of the Board's retention and destruction policy is needed to better understand the document. He also said he went to the Clerk's Office to look up the legislative history of a code and found the file contained very little documentation. The file, he said, should have contained all correspondence, drafts and anything remotely associated with it. He also said the supervisors send and receive emails on legislation that do not go through the Clerk's office and thus not included in the legislative file.

Member Craven suggested forming a special group to work on the issue because of its enormity and complexity.

Task Force Chair Chu to put item on agenda.

5-

Discussion on the status of proposed Sunshine Ordinance amendments and next steps the Task Force will take regarding submitting amendments to the voters.

Public comment: Allen Grossman said he had certain views on who should be responsible to determine what the steps would be to get it on the ballot. Someone has to set up a timetable and review the document, he said. His offer to informally edit the document for consistency was still open, he added. Kimo Crossman said he hoped former Task Force Chair Doug Comstock would be appointed as an ad hoc member if a committee is formed. He also said he had collected all the amendments to the Sunshine Ordinance since 1993 and found resistance from departments when the documents are pushed through the legislative process. He said the same was happening in Gilroy where there is a push for a Sunshine Ordinance. Because of that he suggested planning to go directly to the voters in 2010. He also said there was some time to improve some of the awkwardly written proposals.

Member Craven said she was currently going through the document and hoped to finish her annotated version by the end of next month. After that comes the cleanup which will be followed by the hearings and approvals of the CAC and TF by the end of the year, she said.

Member Chu said the document should be revisited to see what the supervisors could pass and the rest sent to the 2009 ballot. That decision, she said, should be made in February, when two groups should be formed to push the two packets.

Chair Knee said it would be easier to qualify for the ballot in 2010 than in 2009 because the number of signatures needed for a proposal to be eligible is 10 percent of the voter turnout in the last election. He also wanted the proposed amendments to be placed on the next CAC agenda for discussion.

6-

Discussion on moving Compliance and Amendments Committee's monthly meeting from second Wednesday of the month to second Tuesday of the month without change in time.

Member Craven suggested that the committee recommend to the full Task Force to change the monthly meeting from Wednesday to 4:00 p.m. on the second Tuesday of the month and the discussion to take place at the full Task Force meeting.

Public comment: None

Without objection.

7-

Administrator's Report.

Public comment: Kimo Crossman said he had asked for a copy of the digital recording of a meeting and had asked Mr. Rustom to bring it to the meeting but he refused. That, he said, is bad customer service. It was common for other commissions to accommodate members of the public and he wanted the Task Force to instruct Mr. Rustom to provide better service to the public. He also wanted the Task Force to review Mr. Rustom's and Mr. Llorente's performance twice a year.

Mr. Rustom, asked by Chair Knee if he would like to respond, said the office works out of Room 244, where all cash transactions are done and recorded.

8. Public Comment on items not listed on the agenda to be taken at 5:00 p.m. or as soon thereafter as possible.
Public comment: Kim Crossman said SOTF staff had not posted the audio recordings online and if DTIS will not post it there were other places where it could be posted. He also quoted Section 67.29 (iv) (c) and posed the question if supervisors would be in violation of the ordinance if they wanted to reverse a decision. On the rise of complaints, he said, it was the price to pay for open government.

9. Announcements, questions, and future agenda items from Committee members.
Member Chu said the Task Force was in receipt of a memo from the City Attorney regarding DCA Llorente's time constraints and she sought advice on how to title it on the agenda.
Member Craven said one of the ways to maximize use of the DCA's time was to rely on past rulings and findings and not to ask him or her to do additional research on the subject.
After further discussion it was agreed to title the item as "Discussion and possible action on allocation and restrictions on Deputy City Attorney's time."
Chair Knee reminded members and the audience that the California First Amendment Coalition would be holding its free speech and open government assembly at the UC Berkeley Graduate School of Journalism on October 17 and 18 and details were available at www.cfac.org.
Public comment: Kim Crossman wondered if the person who wrote the memo on the Deputy City Attorney's time be invited to speak on the matter or if it was just a discussion item for the Task Force. Chair Knee reminded him that it was going to be a discussion and possible action item. Mr. Crossman also said past decisions and research results by the Deputy City Attorney should be put online in a searchable format. He also said the Task Force needs to make its own policy on redaction. Allen Grossman said it was important for the letter from the City Attorney to Mr. Darby be part of the package and comments submitted in advance be included
Member Craven said the packet should also include Mr. Llorente's memo and submissions made by the public.
Mr. Rustom said he did not refuse service to a member of the public but was informing that person of the procedure.

Adjournment The meeting adjourned at 4:33 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Attachment A:

Dear Honorable Members of the Sunshine Task Force Ordinance,

Re: Michael Addario v. San Francisco Arts Commission (08024)

After the Arts Commission was found in violation of Section 67.5 of the Sunshine Ordinance, it circumvented the Sunshine Ordinance Task Force (SOTF) Compliance and Amendments hearing by bringing up this issue again at the San Francisco Street Artist (SFSA) Program committee meeting held on August 13, 2008.

1.) In Mr. Lazar's Oct 1, 2008 letter to the SOTF committee he states:

"At its meeting of September 8th", the full Arts Commission heard the matter, unanimously voted to rescind its earlier resolution (Res. No. 0407-08-096) which had changed the Street Artists Committee's schedule of meeting from monthly to bi-monthly, and unanimously voted to change the Street Artist Committee's schedule of meeting from monthly to bi-monthly.

By taking these actions at both Committee and Commission levels, we hereby affirm that the Arts Commission has adequately remedied the serial meeting issue under the Task Force's "Decision and Order of Determination" of July 22nd."

Contrary to Mr. Lazar's assertion it should be noted that the SOTF Compliance and Amendment meeting had yet to be held to inform the Arts Commission how to comply. In addition, Mr. Lazar or any other Arts Commission representative failed to attend the Compliance and Amendment hearing to know what the SOTF would require to adequately remedy the present violation.

2.) Again from Mr. Lazar's Oct 1, 2008 letter to the SOTF he states:

Mr. Knee's September 23rd letter also asks "to know what training and other steps the commission and the Street Artist Committee are taking or have taken to ensure that both bodies avoid further seriatim meetings." We wish to inform you that at next Monday's meeting, Oct 6th, of the full Arts Commission, Deputy City Attorney Adine K. Varah will be giving a training session to all Arts Commissioners, staff, and public present at the meeting. This will be listed on the agenda as follows:

City Attorney's Presentation on Sunshine Ordinance and Brown Act

Discussion

Presentation by Deputy City Attorney Adine Varah reviewing the Sunshine Ordinance and Brown Act requirements for the Arts Commission

The City Attorney office was advising the Arts Commission since the beginning, regarding this complaint, and was instrumental in crafting not one, but two letters from the Art Commission that mistakenly claimed that the SOTF did not have jurisdiction over this area. In addition, I attended the presentation that Deputy City Attorney Ms. Varah held on Oct. 6, 2008 at the Full Arts Commission and it was an approximately 25 minute abbreviated slide version of the two hour training session that the Commissioners and Staff are required to fulfill.

3.) And again from Mr. Lazar's Oct 1, 2008 letter to the SOTF he states:

The Street Artist Committee did indeed hear the matter at its meeting of August 13th; various street artists, including Michael Addario, spoke, and the Committee voted to recommend to the Full Arts Commission that the Committee change its schedule of meetings from monthly to bi-monthly."

What's missing in Mr. Lazar's statement is that when the SFSA Committee meeting was held, as seen in the minutes below, six Street Artist - some with over three decades in the program - were adamantly opposed to this change of the meetings from monthly to bi-monthly. Not one street artist spoke in favor of this resolution.

STREET ARTISTS COMMITTEE

Wednesday, August 13, 2008

Minutes

Members present: Commissioners Alexander Lloyd, Chair, Ninive Calegari, Sherene Melania

Members absent: Pop Zhao

Hearing and possible motion to change the schedule of meetings of the Street Artists Committee from monthly to bi-monthly.

Program Director Lazar clarified that the reason for his request that the Committee meet bi-monthly was due to the fact that there was not always enough items to warrant the Committee's consideration on a monthly basis.

Director of Cultural Affairs Cancel [8 months in this position] stated that the second issue was that, because the Commissioners serve on multiple committees, it was his recommendation that work on the Street Artists Committee's calendar be concentrated so that the Commissioners' time is best used to balance their activities among the various committees. Going to a bi-monthly schedule would be a more efficient use of the Commission's time.

Street Artist Tad Sky [34 years as a SFSA member] urged that the meetings be held monthly and that any meeting be cancelled if there is an insufficient amount of items to warrant it. Otherwise, if the meetings were bi-monthly, certain issues that are important to the artists would not be heard for a long time. Over the years he noted that, even with the current monthly schedule, there were no more than eight or nine meetings held per year.

Street Artist Michael Addario, [5 years as a SFSA member] stated that this matter was originally submitted to a vote of the April 7, 2008 meeting of the full Arts Commission without "our knowledge, discussion or approval by the street artists or public." He filed a complaint with the Sunshine Ordinance Task Force, and the Task Force found that the Commission "violated Section 67.5 of the Sunshine Ordinance for holding a seriatem meeting at committee level through two committee members at a non-public meeting and without public input." Because a further hearing of the Task Force was scheduled for August 13th, both Mr. Addario and Program Director Lazar requested a continuance because of the Street Artists Committee's meeting scheduled for the same date.

Mr. Addario stated that he was "strongly opposed to any further voting on this matter until all parties can meet with the San Francisco Task Force Ordinance Compliance and Amendments Committee in September, 2008." He added that any motion "to re-introduce this resolution will only reinforce in the minds of many that this hearing is only a charade, and that the San Francisco Art Commissioners have already formulated their decision; and this could possibly generate another complaint." [Underline mine]

Street Artist Edward Steneck [28 years as a SFSA member] stated he agreed with Tad Sky's statement, it was very important that the meetings be held monthly unless there are reasons for some meetings to be cancelled.

Street Artist Madeline Marrow [20 years as a SFSA member] stated that people's interest and memory of items tend to fade if they have to wait two months for their item to be heard.

Mr. Cancel wanted it noted for the record that there were at least 12 individuals of the public present.

Street Artist Sureyya Ozsoy[1 Year as a SFSA member] stated that she agreed with the statements made by the other artists.

Street Artist Kathleen Hallinan [34 years as a SFSA member] stated that she favored monthly meetings.

Commissioner Calegari moved that the schedule of meetings of the Street Artists Committee be changed from monthly to bi-monthly, the motion was seconded by Commissioner Melania. The Commissioners voted as follows:

Yes – Calegari, Melania

No – Lloyd.

The motion passed.

Source: http://www.sfgov.org/site/sfac_page.asp?id=87827

4.) The vote taken by the SFSA program committee on August 13, 2008 regarding the issue of changing the SFSA program meetings from monthly to bi-monthly did not pass according to San Francisco city charter rules.

Since there were four commissioners listed on the SFSA August 13, 2008 agenda as members on the San Francisco Street Artist Program Committee; Commissioners Lloyd, Melania, Calegari and Zhao, and the vote was two members for the resolution, with one member against, and one members absent, this does not constitute a majority of the members needed to pass a resolution, according to the city charter (Charter §. 4.104.) (see below.) According to charter §4.104 all three commissioners present at the meeting, out of four total commissioners that are members of the SFSA program committee, would have been required to vote in the affirmative to pass this resolution.

"The Charter requires that the number of votes necessary to approve an action (i.e. majority, 2/3, 3/4, etc) be based on the total number of seats, rather than the number of seats currently filled, the number of members present, or the number of members qualified to vote on the item. Charter § 4.104."

Source: [http://www.sfgov.org/site/uploadedfiles/cityattorney/GGG_2007-08\(1\).PDF](http://www.sfgov.org/site/uploadedfiles/cityattorney/GGG_2007-08(1).PDF)

CITY AND COUNTY OF SAN FRANCISCO 1996 CHARTER

Codified through Ordinance 113-08, File Number 080350, approved June 30, 2008. (Supplement No. 17)

SEC. 4.104. BOARDS AND COMMISSIONS--RULES AND REGULATIONS.

Unless otherwise required by this Charter, the affirmative vote of a majority of the members shall be required for the approval of any matter, except that the rules and regulations of the body may provide that, with respect to matters of procedure the body may act by the affirmative vote of a majority of the members present, so long as the members present constitute a quorum. All appointive boards, commissions or other units of government shall act by a majority, two-thirds, three-fourths or other vote of all members. Each member present at a regular or special meeting shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of the members present.

Source:<http://www.municode.com/Resources/gateway.asp?pid=14130&sid=5>

5.) In addition, a recently completed audit done by myself, of the Ethics Commissions records, Statement of Economic Interests (SEI) Form 700 and Sunshine Ordinance Declaration and Certificate of Ethics Training, discovered that Art Department supervisors and many of the San Francisco Arts Commissioner are apparently not complying with these laws.

Name	Position	SEI Filings	Sunshine and Ethics Filings
Johnson	President	Compliant	Compliant
Delaney	Commissioner	Compliant	Compliant
Hunter	Commissioner	Compliant	Compliant
Przyblyski	Commissioner	Compliant	Compliant
Rinder	Commissioner	Compliant	Compliant
Wisley	Commissioner	Compliant	Compliant
Young	Commissioner	Compliant	Compliant
Zhao	Commissioner	Compliant	Non-compliant
Lazar	SFSA Director	Compliant	Non-compliant

Cancel	Director	Compliant	Non-compliant
Kriken	Commissioner	Compliant	Non-compliant
Draisin	Vice President	Non-compliant	Non-compliant
Gonchar	Deputy Director	Non-compliant	Non-compliant
Bihan	Commissioner	Non-compliant	Non-compliant
Calagari	Commissioner	Non-compliant	Non-compliant
Lloyd	Commissioner	Non-compliant	Non-compliant
Melania	Commissioner	Non-compliant	Non-compliant

Go to: [http://mf4.netfile.com/pub/\(S\(5wzs2irdgkottwmryzxvkqja\)\)/Default.aspx?aid=SFO](http://mf4.netfile.com/pub/(S(5wzs2irdgkottwmryzxvkqja))/Default.aspx?aid=SFO)

Sorted by Department, Arts Commission, from 2005 to 2008, accessed Sept. 24, 2008

Therefore, I am appealing to the Sunshine Task Force, to render relief by rescinding this resolution since:

- a.) The resolution was voted on again, in defiance and prior to the SOTF Compliance and Amendments hearing.
- b.) The voting tally did not constitute a majority
- c.) Not one of the San Francisco Street Artist Program Committee Commissioners; Lloyd, Calegari, Melania, Zhao, were in compliance with the Sunshine and Ethics requirements at the time this resolution was heard, and voted on.

Sincerely,

Michael Addario

October 8, 2008

ATTACHMENT 2

RECOMMENDED GUIDELINES FOR RETENTION AND DISPOSAL OF ELECTRONIC RECORDS

FOR THE CITY AND COUNTY OF SAN FRANCISCO

D R A F T

In general: All electronic records created and maintained in the conduct of City/County business are City/County property. Therefore, they are to be organized and retained in such a way as to maximize public access thereto.

These records include electronic communications; the Sunshine Ordinance Task Force believes it is important to call attention to this, because certain City/County officials have taken it upon themselves to destroy e-mails prematurely, in clear violation of the Sunshine Ordinance and the California Public Records Act. The Good Government Guide prepared by the City Attorney's Office states, "Any e-mail that is created or received in connection with the transaction of public business and which (1) the department retains as evidence of the department's activities, or (2) relates to the legal or financial rights of the City or of persons directly affected by the activities of the City, must be retained in accordance with the department's records retention schedule."

The Task Force strongly recommends that all City/County boards, commissions, committees and subcommittees of boards and commissions, departments, agencies and all other entities under the jurisdiction of the Sunshine Ordinance (1) establish and abide by written policies on organizing, retaining and destroying electronic records; (2) develop detailed schedules for electronic records destruction; (3) post those guidelines and schedules on their web sites, such posting to include conspicuous and clearly understandable links on the sites' home pages; and (4) provide training on those guidelines and schedules at least annually to all of their personnel.

The Task Force further strongly recommends that all City/County boards, commissions, committees and subcommittees of boards and commissions, departments, agencies and all other entities under the jurisdiction of the Sunshine Ordinance, in accordance with Ordinance Sec. 67.14, make it permanent practice to air all of their meetings live on SFGTV and/or over the Internet, where technologically feasible; to video- and/or audio-record all of their meetings; and to make such recordings available to the public on their web sites and on portable media including but not limited to DVD and CD.

In the development of schedules for electronic records destruction, the Task Force strongly recommends that the default policy be permanent preservation of each record and type of record unless it can be established that (1) the destruction of a specific record or type of record will not compromise the public's right to know about the matter to which the record pertains; or (2) retention of the record or type of record will strain the City/County's record-storage capacity.

The Task Force also advises that City/County and State sunshine laws stipulate that electronic records are to be provided in their native formats upon request, and that where any such record contains data or metadata that are exempt or prohibited from disclosure, those data or metadata must be deleted and the rest of the record provided.

Authorities: The Sunshine Ordinance Task Force advises that policies regarding electronic records retention and destruction are to be governed by California and San Francisco open-government laws including but not limited to:

I. Article I, Section 3, of the California Constitution (passed by the voters as Proposition 59 in November, 2004).

II. The San Francisco Sunshine Ordinance.

III. The California Public Records Act.

IV. The California open-meetings statutes embodied in the Ralph M. Brown Act.

RECOMMENDED REVISIONS TO THE ELECTRONIC RECORDS RETENTION AND DESTRUCTION SCHEDULE OF THE CLERK OF
THE BOARD OF SUPERVISORS

A0200 series: Retention in most cases should be at least 5 years and storage in most cases should be indefinite.

A202A, Emergency plans: Retention should be "until superseded."

C0100 series

C0102, Annual reports, City departments: Retention should be "until superseded" and storage should be "permanent."

C0105, Attendance reports: Retention should be "tenure duration +5 years" and storage should be "indefinite."

C0106, Board & committee calendars, marked: Retention should be "tenure duration +5 years" and storage should be "permanent."

C0107, Board closed session notes: Storage should be "permanent."

C0108, Boards & commissions files: Storage should be "permanent."

C0109, Budget analyst report: Storage should be "permanent."

C0110, Budget, mayors program (counter): Retention should be "active +2 years" and storage should be "permanent."

C0111, Calendar, department head: Storage should be "permanent."

C0113, Civil service rules: Storage should be "until superseded."

C0114, Claims report, City Attorney: Retention should be "active +5 years" and storage should be "permanent."

C0115-C0129, Various codes: Retention and storage should be "until superseded."

C0132-C0133, Dealing with conflict of interest: Storage should be "permanent."

C0134, Conflict of interest, Regulation 18730: Retention should be "until superseded" and storage should be "permanent."

C0135-C0143, Dealing with correspondence: Storage should be "permanent."

C0146, Election files: Storage should be "permanent."

C0162, Local Agency Formation Commission: Storage should be "permanent."

C0163, Meeting notices, City departments: Retention and storage should be "active +1 year."

C0167, Opinions, City Attorney: Storage should be "permanent."

C0170, Pamphlet, voter: Storage should be "permanent."

C0171, Petitions, general: Storage should be "permanent."

C0178, Rules of order: Retention and storage should be "until superseded."

C0180, State of City message: Storage should be "permanent."

C0183-C0184, Meeting tapes: Retention should be at least "6 months."

D0300 series

D0301-D0303, Board and committee agendas and packets: Retention and storage should be "permanent."

D0304-D0318 and D0320-D0327, Various: Storage in all cases should be "permanent."

D0319, Minutes, draft: Retention and storage should be "until finalized."

Still to come: Series L, R, S, T and Y.

Inbox (Messages)

Items 1 to 2 of 2

New X [Icons] Help

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November 11, 2008 Complaint and CAC meetings

SOTF [sotf@sfgov.org]

To:**Cc:**

The November 11, 2008, Complaint and CAC meetings are cancelled..

Chris Rustom
Asst. Administrator
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
OFC: (415) 554-7724
FAX: (415) 554-7854
SOTF@sfgov.org

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
SPECAIL MEETING AGENDA**

Wednesday, November 12, 2008
4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee (Chair); Erica Craven, Kristin Chu

Notes: Public comment on items not listed on the agenda (Item #9) will be taken at 5:00 p.m. or as soon thereafter as possible. Members of the public who address the Committee are encouraged to fill out speaker cards but may remain anonymous.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of October 8, 2008, regular meeting. (discussion and possible action) (attachment)
2. 08047 Discussion on steps taken by the Taxi Commission to ensure that 150-word summaries provided by a person speaking during a public comment period be included in the minutes. (discussion and possible action) (attachment)
3. Ethics Commission responses to Sunshine Ordinance violation referrals (discussion and possible action)
4. Continued discussion re developing recommendations on the document retention policy of City departments and Board of Supervisors. (discussion and possible action) (no attachment)
5. Discussion on the status of proposed Sunshine Ordinance amendments and next steps the Task Force will take regarding submitting amendments to the voters. (discussion and possible action) (no attachment)
6. Administrator's Report. (discussion only) (attachment)
7. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
8. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting Wednesday, December 9, 2008.

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| | <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. | Matter is with the Task Force for discussion and questions. | |
| 4. | Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. | Matter is with the Task Force for motion and deliberation. | |
| 6. | Public comment <i>(Excluding Complainant & City response, witnesses)</i> | Up to 3 minutes each |
| 7. | Vote by Task Force <i>(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)</i> | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE: Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Administrator by mail to: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854; or by email at SOTF@sfgov.org.

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Lobbyist Registration & Reporting Requirements: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; website: sfgov.org/ethics.

Sunshine Ordinance Task Force



<http://www.sfgov.org/sunshine>

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING AGENDA**

Tuesday, December 9, 2008
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee (Chair); Erica Craven, Kristin Chu

Notes: Public comment on items not listed on the agenda (Item #5) will be taken at 5:00 p.m. or as soon thereafter as possible. Members of the public who address the Committee are encouraged to fill out speaker cards but may remain anonymous.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of November 12, 2008, special meeting. (discussion and possible action) (attachment)
2. Continued discussion of Ethics Commission responses to Sunshine Ordinance violation referrals (discussion and possible action) (no attachment)
3. Continued discussion on the status of proposed Sunshine Ordinance amendments and next steps the Task Force will take regarding submitting amendments to the voters. (discussion and possible action) (no attachment)
4. Administrator's Report. (discussion only) (attachment)
5. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
6. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: January 13, 2009

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SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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- | | | |
|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| | <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. | Matter is with the Task Force for discussion and questions. | |
| 4. | Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. | Matter is with the Task Force for motion and deliberation. | |
| 6. | Public comment (Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 7. | Vote by Task Force (Public comment at discretion of chair on new motion and/or on new motion if vote fails.) | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

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December 9, 2008

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING MINUTES**

**Tuesday, December 9, 2008
4:00 p.m., City Hall, Room 406**

Committee Members: Richard Knee (Chair), Erica Craven, Kristin Chu

Call to Order: 4:15 p.m.

Roll Call: Present: Knee, Chu

Excused: Craven

Deputy City Attorney: Ernie Llorente

Clerk: Chris Ruston

Agenda Changes: Items 5 heard before Item 3

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1. Approval of minutes of November 12, 2008, special meeting.
Motion to approve minutes of November 12, 2008, special meeting (Chu / Knee)
Public Comment: None
On the motion:
Ayes: Chu, Knee
Excused: Craven
Chair Knee then declared a recess until Member Craven arrived. The meeting was restarted at 4:17 p.m.
2. Continued discussion of Ethics Commission responses to Sunshine Ordinance violation referrals (discussion and possible action) (no attachment)
Chair Knee said he would like to ask the Ethics Commission what it meant by "conducted an investigation" because the investigation was done by the Task Force and referred to the commission only for enforcement. He also wanted to know what procedures the commission or staff followed, who participated in the investigation, was anybody from the Task Force invited to testify or submit written testimony, was the complainant contacted and whether the case was investigated by staff and/or rubber-stamped by the commission.
Chair Knee also said the Task Force should strongly object to Ethics Commission Executive Director John St. Croix's statements that said compliance would create a security breach in the District Attorney's Office in the 07077_Allen Grossman v District Attorney referral case and that the City Attorney is a higher authority than the Task Force when it comes to determining the legal duties of City departments in the 07094_Kimo Crossman v City Attorney referral case.
Member Craven said the security breach statement was worrisome and was not surprised that the commission saw that the City Attorney opinion trumps the Task Force's finding. She suggested providing follow-up information when the findings of the Task Force and Ethics Commission are not in agreement. She also suggested providing the commission with clear and detailed information in further referrals and Orders of Determination.
Doug Comstock, former Task Force chair said, he found the letters very troubling because the commission had in previous cases stated that they were dismissing the cases because of insufficient evidence. Now, he said, they are saying that the Task Force made a mistake, a task that they have never taken before. It is not the commission's duty to determine what is or is not a violation of the Sunshine Ordinance, he said. Its duty is to enforce the punishment, that there was no excuse for it and that it was overstepping its bounds, he added. He suggested inviting Ethics Commission Chair Susan J. Harriman to come for a hearing and have her present the commission's point of view rather than the director's point of view. He said gaining that insight

was important because it would show the Task Force what direction it should take in rewriting the ordinance. The commission is a dead-end and a negative force, he said, and it was time for the Task Force to file a Sunshine complaint against the commission for failure to hand over records of the investigations. He said he could do it or his employer, the Westside Observer, would be willing to do it.

Member Craven reminded the Task Force that based on the 07056_Myrna Lim v Ethics Commission complaint, the commission had stated that its investigation files were confidential even though the Task Force disagreed. She did not see any merit in asking for the files because the commission has said the Charter trumps the Sunshine Ordinance. That issue, she said, has to be resolved in a court of law and it would not happen unless someone files a lawsuit through a complaint.

Mr. Comstock said the Task Force needs to do something dramatic to get its point across because the commission does not consider the Task Force valuable and is not paying attention to it. Task Force deliberations are a waste of government money as far as the commission is concerned, he said. He said the Task Force could approach the supervisors, tell them what was occurring and see where they stand.

After further discussion, Member Craven agreed to draft a letter to the Ethics Commission.

Item continued to next meeting.

3. Continued discussion on the status of proposed Sunshine Ordinance amendments and next steps the Task Force will take regarding submitting amendments to the voters. (discussion and possible action) (no attachment)

Member Chu asked Mr. Comstock what were the options and what would he recommend.

Mr. Comstock said the 2009 election is a small election and would be poorly attended. However, he said, the gamble would be on what other items would be on the ballot besides the Sunshine amendments. He wanted the amendments to be on the 2010 California gubernatorial election ballot, which would include the governor's race, because the larger year turnout generally shows better progressive representation among voters. He also said the Task Force should be courting the newspapers and their editorial boards. It also needs to tackle the serial Sunshiner issue, he added.

Member Craven responded that it was very hard to legislate a standard of what is a vexatious requestor. She was open to any suggestions that would address the concern. She added that all she has heard were complaints but no suggestions.

Chair Knee recalled that the last time the proposed ordinance was presented to the supervisors, the Rules Committee added 23 amendments and the Task Force was left having to lobby against its own package. This time around, he said, the Task Force needs to draw up a list to see which amendments could be compromised and what could not be touched. He also added that 2010 was logical because if the amendments have to be put on the ballot by the voters, the number of signatures required to qualify would be only 10 percent of the number of voters who participated in the 2009 election.

Member Craven suggested seeking the supervisors' support and having a final package ready by January 2010 in order to be ready for the following June or November ballot.

Mr. Comstock added that the Task Force should summarize every article in the ordinance and present it to the supervisors and also should highlight the changes and indicate what is was and why it was changed.

DCA Llorente reminded the Task Force of the need to emphasize that the amendments would not unduly burden the cash-strapped city and that the changes were not for the exclusive benefit of a handful of people who make use of the ordinance.

After further discussion, Member Craven agreed to annotate and highlight Article 1 for discussion at the next meeting.

Public Comment: Sylvia Johnson commented on the matter.

4. Administrator's Report. (discussion only) (attachment)
Mr. Ruston made the report.
Public Comment: Sylvia Johnson commented on the report.

5.

Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)

Public Comment: None

6.

Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

None

Adjournment The meeting adjourned at 5:20 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
RESCHEDULED MEETING**

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AGENDA

Wednesday, January 21, 2009
4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee (Chair); Erica Craven

Notes: Public comment on items not listed on the agenda (Item #5) will be taken at 5:00 p.m. or as soon thereafter as possible. Members of the public who address the Committee are encouraged to fill out speaker cards but may remain anonymous.

Call to Order; Roll Call; Agenda Changes

1. Approval of December 9, 2008, special meeting minutes
2. Continued discussion of Ethics Commission responses to Sunshine Ordinance violation referrals (discussion and possible action) (no attachment)
3. Continued discussion on the status of proposed Sunshine Ordinance amendments and next steps the Task Force will take regarding submitting amendments to the voters. (discussion and possible action) (attachment)
4. Administrator's Report. (discussion only) (attachment)
5. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
6. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: February 10, 2009

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| | <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. | Matter is with the Task Force for discussion and questions. | |
| 4. | Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. | Matter is with the Task Force for motion and deliberation. | |
| 6. | Public comment <i>(Excluding Complainant & City response, witnesses)</i> | Up to 3 minutes each |
| 7. | Vote by Task Force <i>(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)</i> | |

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January 21, 2009

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
RESCHEDULED MEETING
MINUTES**

**Tuesday, January 21, 2009
Rescheduled from January 13, 2009
4:00 p.m., City Hall, Room 406**

Committee Members: Richard Knee (Chair), Erica Craven

Call to Order: 4:04 p.m.

Roll Call: Present: Knee, Craven

Task Force Chair Kristin Chu in attendance

Deputy City Attorney: Rosa Sanchez

Clerk: Chris Rustom

Agenda Changes: Items 5 heard before Item 4

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1. Chair Knee announced that President Obama has rescinded a memorandum that then-United States Attorney General John Ashcroft had issued in October, 2001, that urged federal agencies and departments resist to the legal limit all Freedom of Information requests.
2. Approval of minutes of December 9, 2008, meeting.
Motion to approve minutes of December 9, 2009, meeting (Chu /Craven)
Public Comment: None
On the motion:
Ayes: Craven, Chu, Knee
3. Continued discussion of Ethics Commission responses to Sunshine Ordinance violation referrals (discussion and possible action) (no attachment)
The committee continued discussing the referrals. Members also discussed the merits and demerits of sending a letter to the Ethics Commission regarding the referrals.
Member Chu said she preferred to hold off on sending the letter and to discuss the issue at the SOTF-Ethics joint meeting.
Chair Knee said he will send members a memo after he reviewed the audiotapes that cover the Nov.27, 2007, Task Force meeting and the Dec.12, 2007, CAC meeting.
Public Comment: Ray Hartz said one of the things that the Task Force needs to address is the Ethics Commission's reliance on the City Attorney's Office, which tends to prevent the release of public documents. He also questioned DCA Llorente's commitment to the Task Force because 80 percent of his time is spent for the City Attorney's Office.
No official action taken.
4. Continued discussion on the status of proposed Sunshine Ordinance amendments and next steps the Task Force will take regarding submitting amendments to the voters. (discussion and possible action) (no attachment)
Member Craven said the item was not clear and should have read as "Consideration of annotations to Articles I and II of the Amendments (discussion and possible adoption) "
However, she said, it would not be a violation.

Chair Knee asked for the November, 2009, and June, 2010, election deadlines.

Member Craven said a special meeting needed to be scheduled to discuss the suggested additional changes to Articles I, II, III & IV.

Discussed items included:

- The sequence on Page 7 lines 15 and 17
- The missing sentence or paragraph linked to footnote 7 on Page 8
- The word "for" in Line 15 of Page 13
- The difference between section a and b on Page 18
- The capitalization on Page 29, line 8
- Setting the three minute minimum in line 13 of Page 30
- Para 3 (A) on Page 31 needs to be broken down
- Para (f) on Page 32 is new
- Para (c) on Page 33 includes old and new and is double-underlined
- Use of "constitutional" in line 3 on Page 34

Corrections were made to

- The comma on Page 8 line 9
- The extra period in line 20 of Page 28

Chair Knee commented:

- Bodyis in line 17, Page 18 needs spacing
- Footnote 27 needs to be moved to Sec. 67.13 (paragraph not visible)

Member Craven said a protocol is needed to keep changes in the document consistent.

DCA Sanchez suggested Member Craven send her the document and she would use a comparison program to highlight the changes.

Public Comment: Ray Hartz said Sec 67.9 should include a sentence that says items not available 48 hours prior to a meeting shall be moved to the next meeting because he would need that time to research and analyze the item.

Member Craven suggested that the item for the next meeting read: "Continued discussion on the proposed amendments and annotations to Articles I & II of the Sunshine Ordinance." She also suggested adopting the proposed annotations and any other amendments to Articles I & II.

Members then discussed outreach issues.

5. Administrator's Report. (discussion only) (attachment)

Mr. Rustom made the report.

Public Comment: Ray Hartz said some of the complaints because of scheduling and other issues get dragged out for several months. That action, he said, discourages the public and should not happen. A schedule, he added, would be beneficial if placed on the web.

6. Public Comment on items not listed on the agenda to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)

Public Comment: None

7. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Next meeting scheduled Tuesday, February 9, 2009, at 5 p.m.

AdjournmentThe meeting adjourned at 5:25 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force



**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING AGENDA**

Tuesday, February 10, 2009
5:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee (Chair); Erica Craven, Doyle Johnson

Notes: Public comment on items not listed on the agenda (Item #7) will be taken at 5:00 p.m. or as soon thereafter as possible. Members of the public who address the Committee are encouraged to fill out speaker cards but may remain anonymous.

Call to Order, Roll Call, Agenda Changes

1. Approval of January 21, 2008, rescheduled meeting minutes (action)(attachment)
2. 08055 Hearing on the status of the January 6, 2009, Order of Determination of Kimo Crossman vs. the Department of Telecommunications and Information Services, San Francisco Government TV, and City Attorney's Office. (discussion and possible action item) (attachment)
3. 08052 Hearing on the status of the January 6, 2009, Order of Determination of Alvin Xex vs the Arts Commission (discussion and possible action item) (attachment)
4. Continued discussion on the proposed amendments and annotations to Articles I & II of the Sunshine Ordinance. (discussion and possible action item) (attachment)
5. The Sunshine Ordinance Task Force's response to Ethics Commission communications regarding referrals of Sunshine Ordinance violations to the Commission by the Task Force (discussion and possible action) (attachment)
6. Administrator's Report. (discussion only) (attachment)
7. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
8. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: March 10, 2009



SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (Section 67.16)

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- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |
| <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. Matter is with the Task Force for discussion and questions. | |
| 4. Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. Matter is with the Task Force for motion and deliberation. | |
| 6. Public comment <i>(Excluding Complainant & City response, witnesses)</i> | Up to 3 minutes each |
| 7. Vote by Task Force <i>(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)</i> | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE: Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Administrator by mail to: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854; or by email at sotf@sfgov.org.

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February 10, 2009

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING MINUTES**

**Tuesday, February 10, 2009
5:00 p.m., City Hall, Room 406**

Committee Members: Richard Knee (Chair), Erica Craven, Doyle Johnson

Call to Order: 5:04 p.m.

Roll Call: Present: Knee, Craven, Johnson

Deputy City Attorney: Ernie Llorente

Clerk: Chris Rustom

Agenda Changes: Item 7 heard before Item 5

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1. Approval of January 21, 2009, rescheduled meeting minutes
Motion to approve minutes of January 21, 2009, rescheduled meeting (Johnson / Craven)
Public Comment: None
On the motion:
Ayes: Craven, Johnson, Knee
2. Hearing on the status of the January 6, 2009, Order of Determination of Kimo Crossman vs. the Department of Telecommunications and Information Services, San Francisco Government TV, and the City Attorney's Office.
Complainant Kimo Crossman said he has received a spreadsheet from DTIS but that metadata had been removed from it. In addition, a log he received stated that personal information and comment had been removed without justification. He said the document did not include filepath information that DTIS has said is a back door for hackers. Other departments have long provided the information, he added.
Respondent Barry Fraser of the Department of Technology said the spreadsheet that was provided was run through a data removal application sent by Mr. Crossman. The application did not allow the user to make distinctions on the kind of data that was to be removed. He noted that the document's date was modified. Best practices in the industry says file paths should not be provided but in this case it was provided because he copied the document to his desktop and ran the application from there, he said.
Member Craven reminded Mr. Fraser that Task Force Chair Kristin Chu had wanted the department to show what data was removed and why. Mr. Fraser said besides the filepath information nothing in the document was exempt from disclosure. The printer path information was of slight concern because it would show how the department was structured. He also agreed that Mr. Crossman would get an exact copy of the document that was located on his desktop.
Mr. Crossman said the Ordinance addresses the location of a file and that it was not limited to onsite or offsite storage. He also said an expert witness has never said filepaths are dangerous to a system or network.
Mr. Frazer in summary said other departments may not think twice about a filepath but the city's IT department sees it as a risky and is not best practice.
Mr. Crossman said the filepath issue is a red herring and the city network has not been hacked because of its release.
Public Comment: Ray Hartz wanted to know why the department did not review the document when it was first requested and only waited until today to release it.
Member Craven noted that she hoped DTIS would provide documents in their native format in the future and also provide justification when necessary. She also said it hasn't been proven to her that releasing filepath information creates a security risk but that the department had made a good-faith argument that releasing it would compromise the network. She also said she did not see the need to forward this case for enforcement.

Member Craven suggested that the department issue the entire document from the desktop in its entirety within five days and for the item to be placed in next month's agenda if Mr. Crossman reported back to say the department did not comply.

Chair Knee agreed.

No further action taken.

3-

Hearing on the status of the January 6, 2009, Order of Determination of Alvin Xex vs the Arts Commission

Complainant Alvin Xex said the respondents are claiming that tracking data for allocation of tax monies and recipients is non-existent. He has not received the information that he had requested several times, he said. This information should be given to him because, he said, it was not a medical or military matter.

Respondent Nancy Gonchar of the Arts Commission said the agency has provided all the documents it has that were responsive to Mr. Xex's request. Ms. Gonchar also said she had contacted the Department of Human Resources and was told that the Arts Commission had not hired an African-American male in the last five years although people of color had been hired during the same period

Member Craven wanted to know if Ms. Gonchar could contact DHR to inquire if it had the forms of successful applicants for the last five years and if any applicant had checked the box for African-American.

Motion to continue (Johnson)

No second, motion fails.

In summary, she said she will contact DHR and inquire how long job applications are retained, and if it is kept for five years to see if the African-American box was checked.

Mr. Xex said the grant application does have an option to list the applicant's structure and the personnel that will be employed. He also said a name in many cases would indicate the ethnicity and race of the applicant and tracking data is involved when money is given to certain groups. It was improbable for an agency handing out millions of dollars over several years not to have this kind of data, he added.

Public Comment: Ray Hartz said the federal government requires regular reports on all known statistics regarding a grant program to show that all monies are being shared in a fair and equitable basis. He said he was surprised that the city does not keep track of such information. He suggested having the matter continued and having DHR personnel answer the question. Kimo Crossman said the respondent has the information but did not want to provide it because it would show that the department was not distributing the funds equitably.

Member Craven reminded Mr. Xex that the only issue that the Task Force had referred to the Compliance and Amendments Committee was on records disclosing if the agency had employed African-American males in the last five years.

Chair Knee urged both parties to work together and noted that the respondent has indicated that she was willing to work with the complainant to see what additional information is discoverable and disclosable.

No further action taken

4-

Continued discussion on the proposed amendments and annotations to Articles I & II of the Sunshine Ordinance

Chair Knee praised Member Craven for all the time and effort she has put into the amendments.

Member Craven explained to Member Johnson the placement of certain sections of the amendments and discussed with the clerk on how the corrections to the document is being tracked.

Public Comment: Kimo Crossman said the file size of the proposed amendments posted on line was not in proportion to the number of pages. He added that Open Government activists are discouraged because only about 10 percent of their suggestions are incorporated into the drafts. He said there was a move to introduce an independent version to the voters because of the way the activists were being treated.

Chair Knee in response said despite the appearance the efforts by the activists are deeply appreciated. He said comments from all parties had to be weighed and also the committee had to be fair to the departments at the same time. Compromises are a component of a process like this, he said. He also said those involved in a presenting a comparable packet to the voters would find meaningful support from current and present Task Force members. However, the current effort is continuing.

Ray Hartz asked to speak because Chair Knee spoke out of order. Chair Knee agreed. Mr. Hartz said he seems to be the only person who attends all Sunshine meetings except when he had to attend the Board of Supervisors meetings. He said members need to be honest with themselves by realizing that they are discouraging public participation by not accepting the participants' well-researched proposals.

Member Craven suggested and Chair Knee agreed to

- review the 2004 packet and compare it to the latest packet and see what is significantly missing
- ask Terry Franke if he could go through the proposed amendments in Articles I & II.

Member Craven said she would

- review the amendments proposed by Allen Grossman, Kimo Crossman and others to see if anything was overlooked.
- review the San Jose, Oakland and Berkley Ordinances to see if there were provisions that the Task Force needs to consider.

Member Johnson agreed to

- review current changes and look for inconsistencies

Continued to next meeting without objection

5. The Sunshine Ordinance Task Force's response to Ethics Commission communications regarding referrals of Sunshine Ordinance violations to the Commission by the Task Force

Chair Knee announced that Chair Chu was arranging for a joint meeting to be held among members of the Compliance and Amendments Committee and the Ethics Commission at an undetermined date in March. He also said he agreed to review tapes of the Nov. 27, 2007, and Jan. 8, 2008, Task Force meetings and the Dec 7, 2007, Compliance and Amendments Committee meeting. His memo, he said, provides guidance for the letter Chair Chu was going to send to the Ethics Commission and she can incorporate whatever she wants from his memo.

Public Comment: Ray Hartz said he has read all the correspondence involved in this issue. The trend, he said, seems to indicate that the City Attorney is saying: "I am the City Attorney. I don't want to give you something. I'm going to send it to a committee where one of my employees will simply tell you the same thing." It's like telling a defendant that he or she is guilty and then dismissing the case if the person did not agree to the penalty. It's a journey in circles, he said.

No action taken. No motion necessary. Chair knee said issue is back with Chair Chu.

6. Administrator's Report. (discussion only) (attachment)

Mr. Rustom made the report.

Public Comment: None

7. Public Comment on items not listed on the agenda to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)

Public Comment: Ray Hartz he does not mean to demean any of the Task Force members but every Tuesday he attends the Board of Supervisors meetings to present to them "SF Open Government: A Journey in Circles" because he sees people wandering around the bureaucracy and the most they could get from the Task Force was an Order of Determination.

8. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Chair Knee said the Society of Professional Journalists, Northern California chapter, plans to hold its annual James Madison Awards dinner March 18, 2009, at the New Delhi Restaurant in San Francisco.

Next meeting scheduled Tuesday, March 10, 2009, at 5 p.m.

AdjournmentThe meeting adjourned at 5:20 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING AGENDA**

Tuesday, March 10, 2009
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee (Chair), Erica Craven, Doyle Johnson

Notes: Public comment on items not listed on the agenda (Item #6) will be taken at 5:00 p.m. or as soon thereafter as possible. Members of the public who address the Committee are encouraged to fill out speaker cards but may remain anonymous.

Call to Order, Roll Call, Agenda Changes

1. Approval of February 10, 2009, regular meeting minutes (action)(attachment)
2. Developing recommendations for the proposed electronic document retention policy of the Board of Supervisors. (discussion and possible action item) (attachment)
3. Continued discussion on the proposed amendments and annotations to Articles I & II of the Sunshine Ordinance. (discussion and possible action item) (attachment)
4. The Sunshine Ordinance Task Force's response to Ethics Commission communications regarding referrals of Sunshine Ordinance violations to the Commission by the Task Force (discussion and possible action) (attachment)
5. Administrator's Report. (discussion only) (attachment)
6. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
7. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: April 14, 2009

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SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| | <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. | Matter is with the Task Force for discussion and questions. | |
| 4. | Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. | Matter is with the Task Force for motion and deliberation. | |
| 6. | Public comment <i>(Excluding Complainant & City response, witnesses)</i> | Up to 3 minutes each |
| 7. | Vote by Task Force <i>(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)</i> | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

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March 10, 2009
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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING MNUTES**

**Tuesday, March 10, 2009
4:00 p.m., City Hall, Room 406**

Committee Members: Richard Knee (Chair), Erica Craven, Doyle Johnson

Call to Order: 4:09 p.m.

Roll Call: Present: Knee, Craven, Johnson

Deputy City Attorney: Ernie Llorente

Clerk: Chris Rustom

Agenda Changes: None

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1. Approval of February 10, 2009, scheduled meeting minutes
Motion to approve minutes of February 10, 2009, scheduled meeting (Johnson / Craven)
Public Comment: None
On the motion:
Ayes: Craven, Johnson, Knee
2. Developing recommendations for the proposed electronic document retention policy of the Board of Supervisors
Chair Knee said the Committee was more interested in creating a document retention policy for the Task Force and that it be used as an example for other city agencies and departments to follow. After further discussion among members, DCA Llorente said Ron Vinson of the Department of Technology was scheduled to appear before the Task Force for the #09003_Rita O'Flynn v Department of Technology matter on March 24 and that interesting points could surface during deliberations. Chair Knee is to work on a draft to present at the next Committee meeting.
Public Comment: None
Motion to continued to next regular meeting. Without objection
3. Continued discussion on the proposed amendments and annotations to Articles I & II of the Sunshine Ordinance
Member Craven said she was meeting with Frank Darby and Chris Rustom to find a way to maintain the original document as well as include changes to the amendments and approved by the Committee and the Task Force.
Member Johnson wanted to know why certain paragraphs were moved in the first two Articles and Member Craven explained.
Chair Knee said the 2004 proposal package he received did not contain some sections. He also has asked Terry Francke of Californians Aware, Peter Scheer of California First Amendment Coalition, David Greene of the First Amendment Project, and Thomas Burke, who played a major role in drafting Prop G in 1998-99, to review and comment on Member Craven's annotated Articles I & II.
Members then discussed Chair Knee's memo to the Committee. It is attached to this document.
Continued to next meeting without objection.
4. The Sunshine Ordinance Task Force's response to Ethics Commission communications regarding referrals of Sunshine Ordinance violations to the Commission by the Task Force
Members discussed the dates available to meet with Ethics Commission members and agreed to let Task Force Chair Kristin Chu know that the dates were March 27, April 10 or April 24. It was noted that April 10 was Good Friday and that some members may not be able to attend.

Members also discussed the proposed letter and left it up to Chair Chu to decide what to do next.

5. Administrator's Report. (discussion only) (attachment)
Mr. Rustom made the report.
Chair Knee said Nancy Gonchar's letter to Alvin Xex on the city's workforce break down was interesting but that it was unfortunate departments and agencies do not do their own tracking.
Public Comment: None
Chair recessed meeting till 5 p.m.
6. Public Comment on items not listed on the agenda to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
Public Comment: None.
7. Announcements, questions, and future agenda items from Committee members.
(discussion only) (no attachment)
Member Johnson reminded members about the March 15-21, 2009, Sunshine Week. Member Craven mentioned the James Madison Awards dinner on March 18, 2009.

AdjournmentThe meeting adjourned at 5:07 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

March 10, 2009

To the Sunshine Ordinance Task Force Compliance and Amendments Committee:

In re: Item #3 – Continued discussion on the proposed amendments and annotations to Articles I and II of the Sunshine Ordinance – on the agenda for today's Committee meeting:

Below is a summary of provisions in Sunshine Ordinance, Articles I and II, that were part of a package proposed by the Task Force in 2004 and do not appear in the package drafted in 2008. Italicizing indicates a question of whether a provision has been removed or shifted to another section in the 2008 version.

67.3 Definitions

(b) "Meeting"

(4) "Meeting" not to include:

(D): This subparagraph in 2004 version is deleted from or moved in 2008 version: *Proceedings of the Department of Social Services Child Welfare Placement and Review Committee or similar Committees which exist to consider confidential information and make decisions regarding Department of Social Services clients.*

(c) "Passive Meeting Body"

(5) 2008 version deletes or moves: *Notwithstanding the provisions of paragraph (4) above, "Passive meeting body" shall include a Committee that consists solely of employees of the City and County of San Francisco when such Committee is reviewing, developing, modifying, or creating city policies or procedures relating to the public health, safety, or welfare or relating to services for the homeless;*

(d) "Policy Body"

2008 version deletes or moves the following from 2004 version:

(5) Any standing Committee, ad hoc Committee, and Task Force of a policy body irrespective of its composition.

(6) Any body appointed by the Mayor for the purpose of creating policy.

~~(6) (7)~~ "Policy Body" shall not include a Committee, which consists solely of employees of the City and County of San Francisco, unless such Committee was established by charter or by ordinance or resolution of the Board of Supervisors.

(8): Becomes (6) in 2008 version: Any advisory board, commission, Committee, or council created by a federal, state or local grant whose members are appointed by ~~e~~city officials, employees or agents.

67.4 Passive Meeting Bodies: Conduct of Business

(a)(2) Such gatherings need not be conducted in any particular space for the accommodation of members of the public, although members of the public shall be permitted to observe on a space available basis consistent with legal and practical restrictions on occupancy

(a)(5) Gatherings subject to this subsection include the following: advisory Committees or other multimember bodies created in writing or by the initiative of, or otherwise primarily formed or existing to serve as a non-governmental advisor to, a member of a policy body, the Mayor, the City Administrator, a department head, or any elective officer, and social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited. This subsection shall not apply to a Committee, which consists solely of employees of the City and County of San Francisco.

(a)(6) Gatherings defined in subdivision (5) may hold closed sessions under circumstances allowed by this Article

(b) To the extent not inconsistent with state or federal law, ~~a policy body the City and any of its commissions, departments or officers~~ shall include in any contract ~~or grant with an entity that owns, operates or manages any property in which the City has or will have an ownership interest including a mortgage, and on which the entity performs~~ for the performance of a government function related to the furtherance of health, safety or welfare, a requirement that any meeting of the governing board body, ~~if any~~ of the entity to address any matter relating to ~~the property or its government-related activities on the property, or~~ performance under the contract or grant, be conducted as provided in subdivision (a) of this section. Records made available to the governing ~~board body~~ relating to such matters shall be likewise available to the public, at a cost not to exceed the actual cost up to 10 cents per page, or at a higher actual cost as demonstrated in writing to such governing board body.

It is important to note that in the copy of the 2004 package I received from the Task Force Administrator, Sections 67.8, 67.8-1, 67.10, 67.11, 67.12 and 67.17 are missing.

Administrator Chris Rustom has informed me that he looked at all versions in the red-lined format and all the documents are missing those the sections; and that those sections are not listed in the Legislative Digest mentioning the amendments.

Respectfully submitted,

Richard Knee

Compliance and Amendments Committee Chair

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April 14, 2009

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING AGENDA**

Tuesday, April 14, 2009

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee (Chair), Erica Craven, Doyle Johnson

Notes: Public comment on items not listed on the agenda (Item #6) will be taken at 5:00 p.m. or as soon thereafter as possible. Members of the public who address the Committee are encouraged to fill out speaker cards but may remain anonymous.

Call to Order, Roll Call, Agenda Changes

1. Approval of March 10, 2009, regular meeting minutes (action)(attachment)
2. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force (discussion and possible action item)
3. Continued discussion on the proposed amendments and annotations to Articles I & II of the Sunshine Ordinance. (discussion and possible action item)
4. Next steps on the Orders of Determination issued by the Task Force (discussion and possible action) (attachment)
5. Administrator's Report. (discussion only) (attachment)
6. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
7. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: May 12, 2009

THE AGENDA PACKET IS AVAILABLE FOR REVIEW MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

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| | Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| <i>(Above total speaking times for Complainant and City to be the same.)</i> | | |
| 3. | Matter is with the Task Force for discussion and questions. | |
| 4. | Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. | Matter is with the Task Force for motion and deliberation. | |
| 6. | Public comment <i>(Excluding Complainant & City response, witnesses)</i> | Up to 3 minutes each |
| 7. | Vote by Task Force <i>(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)</i> | |

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE: Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Administrator by mail to: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854; or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from the Administrator or by printing Chapter 67 of the San Francisco Administrative Code from the Internet, at URL: http://www.sfgov.org/site/sunshine_page.asp?id=34495

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April 14, 2009

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE**
MEETING MINUTES

Tuesday, April 14, 2009

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee (Chair), Erica Craven-Green, Doyle Johnson**Call to Order:** 4:05 p.m.**Roll Call:** Present: Knee, Craven-Green, Johnson**Deputy City Attorney:** Ernie Llorente**Clerk:** Chris Rustom**Agenda Changes:** NoneGOVERNMENT
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1. Approval of March 10, 2009, scheduled meeting minutes
Motion to approve minutes of March 10, 2009, scheduled meeting (Johnson / Craven-Green)
Public Comment: None
On the motion:
Ayes: Craven-Green, Johnson, Knee
2. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force
Chair Knee said the draft that was distributed before the meeting was based on the Clerk of the Board's document retention policy and would request that Records and Information Manager Frank Darby and a representative of the Department of Technology be invited to the next meeting.
Member Craven-Green said emails need to be archived in a manner that is searchable and retrievable. She also said the draft should specify that documents should be made accessible to the public rather than stored online. She suggested discussing with Mr. Darby the ideal technology that could be made available to the administrator for maintaining the Task Force's email and records. That, she said, would meet the Ordinance's requirement and could be used as a model for the supervisors and other departments. It would also allow the Task Force to have a say if the City is updating its software, she said.
Public comment: Kristin Chu, chair of the Task Force, said Ron Vinson of the Department of Technology mentioned during the last Task Force meeting that the City was planning on using the Microsoft Exchange Server software. She also said the language on the retention policy should also include the medium on which the electronic document needs to be stored. She added that the committee needs to evaluate the Google posting. (Chair Knee asked the administrator to look into the details behind the Google offering.) Joshua Arce of the Brightline Defense Project wanted to know if it was cost prohibitive to say do not delete emails. Chair Knee said he did not know but the issue would arise sometime in the future as email boxes have a limited capacity.
- 3.

Continued discussion on the proposed amendments and annotations to Articles I & II of the Sunshine Ordinance

Chair Knee said he still has not heard back from his contacts and believes that they may not had a chance to review the amendments or were silent because they approve of it.

Member Craven-Green said Mr. Darby has reduced the size of the amendments considerably by disabling the track changes feature and that she was now reentering her footnotes manually in time for the May meeting. She said she will also do annotations to Articles III and IV.

Chair Knee thanked Member Craven-Green for her work on the amendments.

Public comment: None

4. Next steps on the Orders of Determination issued by the Task Force
Member Craven-Green said the item could not be discussed because it was not properly agendized and the parties involved were not notified.
Public comment: None
5. Administrator's Report. (discussion only) (attachment)
Mr. Rustom made the report.
Member Craven-Green suggested that the Orders of Determination be cc'd to the chairs of the Task Force and this committee so that they would know what to expect on the agenda.
Public comment: None
6. Public Comment on items not listed on the agenda to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
Public Comment: Joshua Arce of the Brightline Defense Project said the Task Force found the SFPUC in violation on March 24, 2009, of deleting records. He said SFPUC representative Tony Winnicker had said that the emails are on a tape and kept for a year before it is overwritten. If that is correct, he said, the SFPUC has wiped out some and is about to erase more of the emails that he is seeking from the department. He asked that the department be told to restore the emails in question before continuing the purge.
DCA Llorente advised that the chair could not take any formal action on matters presented during the public comment session.
Matter continued to 5:00 p.m.
Public Comment reopened at 5:00 p.m. No speakers
7. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)
Chair Knee said a request has been submitted to have the CAC-EC meeting on April 24, 2009, be televised live and the video to be maintained on the SFGTV website.
Mr. Rustom said the Clerk of the Board Angela Calvillo and Ethics Commission Executive Director John St. Croix were discussing the possibility of splitting the cost involved in broadcasting and maintaining the video.
Chair Knee said it would be lamentable if the meeting was not given maximum exposure as the SOTF and the EC have serious differences.

AdjournmentThe meeting adjourned at 5:02 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force



Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING AGENDA**

Tuesday, May 12, 2009

4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee (Chair), Erica Craven, Doyle Johnson

Notes: Public comment on items not listed on the agenda (Item #9) will be taken at 5:00 p.m. or as soon thereafter as possible. Members of the public who address the Committee are encouraged to fill out speaker cards but may remain anonymous.

Call to Order, Roll Call, Agenda Changes

1. Approval of April 14, 2009, regular meeting minutes (action)(attachment)
2. 09003 Hearing on the status of the March 24, 2009, Order of Determination of Rita O'Flynn against the Department of Technology (discussion and possible action item) (attachment)
3. 09006 Hearing on the status of the March 24, 2009, Order of Determination of Joshua Arce and Eric Brooks against the SFPUC (discussion and possible action item) (attachment)
4. 09007 Hearing on the status of the April 28, 2009, Order of Determination of David Larkin against the Department of Public Works (discussion and possible action item) (attachment)
5. 09018 Hearing on the status of the April 28, 2009, Order of Determination of Anonymous Tenants against the Department of Building Inspection (discussion and possible action item) (attachment)
6. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force (discussion and possible action item)
7. Continued discussion on the proposed amendments and annotations to the Sunshine Ordinance. (discussion and possible action item)
8. Administrator's Report. (discussion only) (attachment)
9. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)

10. Announcements, questions, and future agenda items from Committee members.
(discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: June 9, 2009

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be part of the official public record. (Section 67.7-1 (c))

- | | |
|---|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |
| <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. Matter is with the Task Force for discussion and questions. | |
| 4. Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. Matter is with the Task Force for motion and deliberation. | |
| 6. Public comment (Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 7. Vote by Task Force (Public comment at discretion of chair on new motion and/or on new motion if vote fails.) | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

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May 12, 2009

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SUNSHINE ORDINANCE TASK FORCE COMPLIANCE AND AMENDMENTS COMMITTEE MEETING MNUTES

Tuesday, May 12, 2009
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee (Chair), Erica Craven-Green, Doyle Johnson

Call to Order: 4:00 p.m.

Roll Call: Present: Knee, Craven-Green, Johnson

Deputy City Attorney: Ernie Llorente
Clerk: Chris Ruston

Agenda Changes: Item 9 heard before Item 5

1. Approval of April 14, 2009, regularly scheduled meeting minutes

Motion to approve the April 14, 2009, minutes (Johnson / Craven-Green)

Public Comment: None

On the motion:
Ayes: Craven-Green, Johnson, Knee

2. 09003 Hearing on the status of the March 24, 2009, Order of Determination of Rita O'Flynn against the Department of Technology

Complainant Rita O'Flynn said she is looking for documents about her property and was not investigating HUD. She then summarized her case.

Barry Fraser of the Dept of Technology said the department did some research but was not able to come up with an estimate of the cost of searching the backup tapes for the emails. He also questioned who would pay for the recovery if the emails did not exist. He said the department is reiterating its position that the law does not require it to search archive tapes for emails deleted by departments according to their retention policies. The system is designed only for recovery in case of a disaster, he said.

Member Craven-Green said no specific exemption applies to backup data and that under CPRA § 6253.9 the requestor might be required to pay for the search and retrieval of information. She said the only solution would be for Ms. O'Flynn to work with the department by narrowing her request to reduce the cost.

Motion to continue. Without objection

Public Comment: None

Chair Knee said the complainant needs to decide how much she was willing to pay for the information pursuant to CPRA § 6253.9.

3. 09006 Hearing on the status of the March 24, 2009, Order of Determination of Joshua Arce and Eric Brooks against the SFPUC.

Member Craven-Green was recused because her partner works for the SFPUC.

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Complainant Joshua Arce said he, Eric Brooks and many Sunshine advocates and activists want to know the full extent of the records that were deleted. The issue, he said, was if there was willful failure on the part of the SFPUC. If so, he said, it would be equivalent to official misconduct under §67.34. Based on comments made during the Task Force hearings in March, willful failure applies to this case, he said. He also questioned the criteria in deleting from the in, out and deleted folders.

Respondent Tony Winnicker of the SFPUC said the Order of Determination was for the PUC to check backup tapes for deleted emails and produce them. He said he checked with the department's IT personnel and was told that the tapes are held for six months and not one year as he had mentioned during the Task Force hearing. He said SFPUC General Manager Ed Harrington in an email to Mr. Arce last year had mentioned that the tapes were kept for six months before they are overwritten. The email records from April and May of 2008 have been erased, he said. Also, he said, large departments and organizations that use Microsoft Outlook have to erase unwanted emails from all boxes for the program to run smoothly. He said the Task Force may not agree with the practice but the department has complied to the best of its ability.

Chair Knee said he was troubled because §67.29-7 calls for preserving all documents in a professional and businesslike manner. Mr. Winnicker said all major documents are printed and preserved. Other exchanges are not. He said departments and agencies have set their own policies because of a lack of a city policy. The SFPUC, he said, is discussing guidelines regarding emails. Also being discussed within the department is the issue of increasing the time backup tapes are being retained, he said.

Chair Knee said the advice provided by the City Attorney in the Good Government Guide states that any email that is created or received in connection with the transaction of public business and which (1) the department retains as evidence of the department's activities, or (2) relates to the legal or financial rights of the City or of persons directly affected by the activities of the City, must be retained in accordance with the department's records retention schedule. Mr. Winnicker said he believes the department follows that advice.

Chair Knee continued that the standard for determining if email is a record that must be retained is identical to the standard that applies to any document. Govt. Code §6252(e); Admin. Code §67.20(b). If the email must be retained, it should be printed out and the hard copy retained in the appropriate file unless the department can reliably retain and retrieve the email in electronic format.

Mr. Winnicker did not rebut. Mr. Arce said the matter should be forwarded to the Ethics Commission for enforcement. The issue behind the Sunshine request affected about 50,000 people in the area where the proposed power plant was to be built, he said. Everybody wanted information on the subject and was denied by the SFPUC. That, he said constitutes willful failure under § 67.34.

Chair Knee noted that neither the Sunshine Ordinance nor the CPRA cover the backup procedure.

Motion to refer case to the full Task Force with the recommendation that it be sent on to the Ethics Commission (Johnson / Knee)

Public Comment: None.

On the motion:

Ayes: Johnson, Knee

Recused: Craven-Green

4. 09007 Hearing on the status of the April 28, 2009, Order of Determination of David Larkin against the Department of Public Works

Complainant David Larkin said the records should be released and he did not believe the DPW should withhold a misconduct report. The DPW should have also checked with the City Attorney on whether the documents were disclosable, he said.

Respondent Frank Lee of the Department of Public Works said he was disappointed by the way the case was handled on April 28, 2009, by the full Task Force and not by its decision made on the same day. He said in the name of open government, if the complainant can request a continuance, the respondent should also be given the same opportunity. He said the department gets more than one Sunshine request a day and he has been handling the department's public records requests for more than a year and has never had a problem. He also said DCA Llorente helped him with limited information and was told to contact the DCA assigned to the department. He said he is perplexed over the whole situation.

Member Craven-Green said the complainant gets only one chance because he or she has to take unpaid time off to come to the hearing whereas the respondent is a paid city employee who is required to appear at City hearings. She also explained the procedures and added that Mr. Llorente has an ethical screen that he has to maintain.

Member Craven-Green said proper procedure was followed but improvements can always be made. However, the issue at hand was whether the department was going to release the records.

Mr Lee said he would like to discuss the matter with the department's DCA.
After further discussions, a motion was made.

Motion to continue matter to the next CAC meeting. (Craven-Green / Johnson)

The respondent did not rebut. Mr Larkin, the complainant, said this matter has been going on since November 2008, and the number of emails to him from the department indicated that the City Attorney's Office has been involved from the beginning and that no additional time should be provided.

Public comment: None.

Chair Knee said he was against continuing the matter and as the complainant indicated, the department has had a lot of time to consult with the City Attorney's Office.

The maker of the first motion withdraws after second withdraws first.

Motion to refer case to the full Task Force with the recommendation that it be sent on to the Ethics Commission with a finding of willful failure to comply with the Order of Determination. (Knee / Johnson)

Member Craven-Green said if the department releases the documents before the next Task Force meeting on May 26, 2009, it could moot the motion for referral to the Ethics Commission because the Order of Determination would have been complied with.

On the motion:

Ayes: Craven-Green, Johnson, Knee

5. 09018 Hearing on the status of the April 28, 2009, Order of Determination of Anonymous Tenants against the Department of Building Inspection

Complaint Anonymous Tenants said the department has not complied with the Order of Determination because nothing has been provided.

Respondent William Strawn said the Department of Building Inspection has consulted with Matrix Consulting for the backup data on the cost analysis as specified in Sec. 67.28(d). The department is also gathering information internally to meet the section's requirements. Fee justification documents would be ready for posting by July 1, 2009, and it would another month or so to get the rest of the data.

Motion to continue matter to the July 14, 2009, Compliance and Amendments hearing and to see if it is posted and complies with Sec. 67.28 (d) (Craven-Green/ Johnson)

No rebuttals were offered.

Public Comment: None

On the motion:

Ayes: Craven-Green, Johnson, Knee

6. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force.

Chair Knee reported that he had a very productive meeting with Board of Supervisors' Records and Retention Manager Frank Darby. He aid Mr. Darby is working with the Department of Technology to determine the technology aspect of the topic. A lot of items on the SOTF's Retention and Destruction schedule are online or is the process of being done, he added.

Member Craven-Green said she was interested to know a department's email capacity, the backup process and the search and retrieval process in the Lotus Notes and how it would be in the new system that the city adopts.

Member said the committee should also look at the way how nearby cities manage their electronic records.

Chair Knee asked each committee member to create a list of what he or she would like to see as a minimum standard. He also invited Mr. Darby and Ron Vinson of the Dept of Technology to next month's meeting.

Public Comment: None

Item continued: Without objection

7. Continued discussion on the proposed amendments and annotations to the Sunshine Ordinance

Member said she is still working on the document and would have it ready for the next regularly scheduled meeting.

Public Comment: None

Item continued: Without objection

8. Administrator's Report. (discussion only) (attachment)

Mr. Rustom made the report.

Public comment: None

9. Public Comment on items not listed on the agenda to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)

Public Comment: Jeff Ente said he attended the Ethics Commission on Monday because he was concerned about the willful-failure-finding requirement described by the commission's Executive Director John St. Croix. during the April 24, 2009, CAC-EC meeting. He said the EC investigator's line of questioning him regarding his complaint against Supervisor Peskin was not directed at trying to find willful failure He said Mr. St. Croix did not respond to his offer for additional information that was not presented during the SOTF hearings. He added that EC investigator Paul Solis had told him over the phone that they were not going to talk to him because the complaint was filed by the Task Force. That was why he told the EC on Monday that they needed to revisit the 14 cases in which no violation of willful failure was found by the EC.

Public Comment reopened after Item 5.

Motion to open Public Comment. Without objection

Anonymous female said she had communication problems with the Task Force in the past but that has improved and all documents from the Task Force to her are being sent timely.

10. Announcements, questions, and future agenda items from Committee members.
(discussion only) (no attachment)

Adjournment The meeting adjourned at 5:50 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force



Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING AGENDA**

Tuesday, June 9, 2009

4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee (Chair), Erica Craven-Green, Doyle Johnson

Notes: Public comment on items not listed on the agenda (Item #8) will be taken at 5:00 p.m. or as soon thereafter as possible. Members of the public who address the Committee are encouraged to fill out speaker cards but may remain anonymous.

Call to Order, Roll Call, Agenda Changes

1. Approval of May 12, 2009, regular meeting minutes (action)(attachment)
2. 09003 Continued hearing on the status of the March 24, 2009, Order of Determination of Rita O'Flynn against the Department of Technology (discussion and possible action item) (attachment)
3. 09021 Hearing on the status of the May 26, 2009, Order of Determination of SORE against the SFPUC (discussion and possible action item) (attachment)
4. Discussion on vexatious complainants. (discussion and possible action item)
5. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force (discussion and possible action item)
6. Continued discussion on the proposed amendments and annotations to the Sunshine Ordinance. (discussion and possible action item)
7. Administrator's Report. (discussion only) (attachment)
8. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)
9. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: July 14, 2009

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (Section 67.16)

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- | | | |
|----|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| | <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. | Matter is with the Task Force for discussion and questions. | |
| 4. | Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. | Matter is with the Task Force for motion and deliberation. | |
| 6. | Public comment (Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 7. | Vote by Task Force (Public comment at discretion of chair on new motion and/or on new motion if vote fails.) | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

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June 9, 2009

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE**

MEETING MNUTES

Tuesday, June 9, 2009

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee (Chair), Erica Craven-Green, Doyle Johnson

Call to Order: 4:06 p.m.

Roll Call: Present: Knee, Craven-Green, Johnson

Deputy City Attorney: Ernie Llorente

Clerk: Chris Rustom

Agenda Changes: Item 8 heard before Item 6

1. Approval of May 12, 2009, regularly scheduled meeting minutes
Motion to approve the May 12, 2009, minutes (Johnson / Craven-Green)
Public Comment: None
On the motion:
Yes: Craven-Green, Johnson, Knee
2. 09003 Continued hearing on the status of the March 24, 2009, Order of Determination of Rita O'Flynn against the Department of Technology (discussion and possible action item) (attachment)
Complainant Rita O'Flynn was not present. She had informed the committee that she would not be able to attend.
Respondent Barry Fraser said the Department of Technology has responded to the complainant's request regarding Iron Mountain and that no records were available because the request was made verbally. On the original complaint, he said the only way to restore backup data is to recreate the account and then search folder by folder.
Member Craven-Green said the information including cost should be provided to the complainant as early as possible so that the committee could hear what she had to say at the next meeting and perhaps be able to close the case.
Item continued. Without objection
3. 09021 Hearing on the status of the May 26, 2009, Order of Determination of SORE against the SFPUC (discussion and possible action item) (attachment)
Member Craven-Green recused herself as she had done during the original hearing.
Complainant and Respondent were not present nor represented.
Public Comment: A member of the public reminded the committee that the Order of Determination did not require any action from the part of the respondent. Ray Hartz said departments must make documents available to the public and should be penalized if they don't.
No motion for action. Matter concluded
4. Discussion on vexatious complainants. (discussion and possible action item)
Chair Knee said the issue has come before the committee before and, and the committee and the full task force have taken a cautious approach because of questions on how to define a vexatious- and what constituted a vexatious- behavior. He also recalled that a member of the State Assembly had introduced a vexatious requestor- bill but that it was withdrawn because of opposition from sunshine and First Amendment advocates.
Member Johnson, who is also on the Task Force's Complaint Committee, said if someone wants to file 100 complaints against a department; he was willing to hear all the cases.

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Member Craven-Green said the difficulty is what legal standard would be used to see what kind of complainants fall within that category. She recalled that there was an effort by City Attorney Dennis Herrera to take a "vexatious" complainant to Superior Court.

Chair Knee added that the Sunshine Ordinance and the CPRA prevents an agency or department from asking members of the public why they need documents.

Public Comment: Paul Weston said there would not be a need to discuss vexatious complainants if the public had easy access to documents. Ray Hartz said Kimo Crossman does a service to the city because he is one of the few people who have been willing to take on the agencies and departments in pursuit of sunshine. Labeling a person as a vexatious complainant is code for calling that person a true believer in sunshine. Doug Comstock said a lot of people would support the inclusion of vexatious complainants in the amendments and that would help at the ballot box. The trick would be to make the standard very high, he said.

Chair Knee said if the amendments passed and the courts removed the "vexatious" clause, "the other amendments would stay because of the Ordinance's severability clause

Item closed

5. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force

Chair Knee said he was still working on the draft proposal but the issue of emails should be done first.

Member Craven-Green said it was a complex issue because emails also included attachments and documents. The document needs to be revised to meet new realities, she said. She also said the committee needs to know the capacity of the system and its limitations.

Member Johnson said the departments need to keep an electronic document and a paper document for the same length of time.

Public Comment: Barry Fraser of the Department of Technology said the Committee on Information Technology should be involved in this effort and said he would forward details to the Task Force. The city, he said, receives about 100 million emails a year and one department alone could not handle it. To have a system that could be applied citywide would be labor-intensive, time-intensive and complicated, and all departments have to see that their needs are met. The effective way is for each department to hold its own, he added. Ray Hartz said cities always find funds for projects they want but when it comes to public records they act differently. He found it incredible that 10 years after Sunshine was introduced, departments are still coming up with excuses for not preserving emails. Doug Comstock said when he volunteered at a supervisor's office about a year ago, he was told that the Clerk of the Board had instructed the office to delete emails after a certain date.

Item continued to next meeting. Without objection

6. Continued discussion on the proposed amendments and annotations to the Sunshine Ordinance. (discussion and possible action item)

Chair Knee lauded Member Craven-Green for her work on the amendments and annotations. Member Craven-Green acknowledged former Task Force Chair Doug Comstock, who was in the audience, and said he needs to be recognized for his remarkable work on the amendments

Members later discussed the significant provisions of the amendments.

Public Comment: Doug Comstock thanked Member Craven-Green and Chair Knee for the work they had done over the years. He said the next hurdle was to write the cover letter. Ray Hartz said the Education, Outreach and Training Committee should start planning public presentations because if four Supervisors do not agree to the amendments the Task Force needs to go to the voters.

Item continued to next meeting. Without objection

7. Administrator's Report. (discussion only) (attachment)

Mr. Rustom made the report

Public Comment: None

8. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)

Ray Hartz said he is very concerned that no action has been taken on two of his Orders of Determination. The two cases were sent to the Education, Outreach and Training Committee and not the Compliance and Amendments Committee as required by the Task Force's By-Laws. He said he was not told when his case would be heard at the Education, Outreach and Training

Committee. He requested that the cases be brought back to the Compliance and Amendments Committee and be notified when the case is to be heard.

Mr. Rustom, to Member Craven-Green's question, said he believed that Mr. Hartz was notified the first time.

Member Craven-Green said it was incumbent upon the Task Force to notify complainants when their cases are being discussed.

Mr. Hartz, at the invitation of the chair, added that he had contacted members of the Task Force several times and nobody had responded. He also said he wanted to see the email Mr. Rustom allegedly said.

Member Craven-Green said she would like the cases be sent back to the Task Force for further action.

Member Johnson said he is on the Education, Outreach and Training Committee and although he missed a meeting an informational gathering was held to get information from the Police Department.

Chair Knee said the Task Force knows that many complainants are frustrated but asked them to stay the course because people like them are needed.

9. Announcements, questions, and future agenda items from Committee members.

Chair Knee said former Ethics Commissioner Joe Lynn is seriously ill at the California Pacific Medical Center at Buchanan and Clay and those who want to cheer him up can call (415) 600-6000.

Adjournment The meeting adjourned at 5:36 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING AGENDA**

Tuesday, July 14, 2009

4:00 p.m., City Hall, Room 406

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Committee Members: Richard Knee (Chair), Erica Craven-Green, Doyle Johnson

Notes: Public comment on items not listed on the agenda (Item # 8) will be taken at 5:00 p.m. or as soon thereafter as possible.

Call to Order, Roll Call, Agenda Changes

1. Approval of June 9, 2009, regular meeting minutes (action)(attachment)
2. 09003 Continued hearing on the status of the March 24, 2009, Order of Determination of Rita O'Flynn against the Department of Technology (discussion and possible action item) (attachment)
3. 09018 Continued hearing on the status of the April 28, 2009, Order of Determination of Anonymous Tenants against the Department of Building Inspection (discussion and possible action item) (attachment)
4. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force (discussion and possible action item)
5. A proposal to add to the amendments a provision prescribing disciplinary measures against any attorney in the City Attorney's Office who knowingly provides erroneous advice to a City official, employee or entity on an open-government-related matter. (discussion and possible action)
6. Continued discussion on the proposed amendments to the Sunshine Ordinance. (discussion and possible action item)
7. Administrator's Report. (discussion only) (attachment)
8. Public Comment on items not listed on the agenda. (no action) (no attachment)
9. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: August 11, 2009

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| | <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. | Matter is with the Task Force for discussion and questions. | |
| 4. | Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. | Matter is with the Task Force for motion and deliberation. | |
| 6. | Public comment <i>(Excluding Complainant & City response, witnesses)</i> | Up to 3 minutes each |
| 7. | Vote by Task Force <i>(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)</i> | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

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July 14, 2009

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SUNSHINE ORDINANCE TASK FORCE COMPLIANCE AND AMENDMENTS COMMITTEE MEETING MNUTES

Tuesday, July 14, 2009

4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee (Chair), Erica Craven-Green, Doyle Johnson

Call to Order: 4:03 p.m.

Roll Call: Present: Knee, Craven-Green

Excused: Johnson

Deputy City Attorney: Ernie Llorente

Clerk: Chris Rustom

Agenda Changes: Item 8 heard before Item 7

1. Approval of June 9, 2009, regularly scheduled meeting minutes

Motion to approve the June 9, 2009, minutes (Craven-Green / Knee)

Public Comment: None

On the motion:

Ayes: Craven-Green, Knee

Excused: Johnson

2. 09003 Continued hearing on the status of the March 24, 2009, Order of Determination of Rita O'Flynn against the Department of Technology.

Complainant Rita O'Flynn said the emails between the Task Force, the Dept. of Technology and herself have established that she is entitled to the records she is seeking and that there is a way to retrieve data that a department had deleted. She asked the Committee invoke Sec. 67.26 and order the department to retrieve the documents for free.

Respondent Barry Fraser said the Dept. of Technology has responded to the committee's request to provide Ms O'Flynn with a cost estimate and that he could not hand over raw data to the complainant because of confidentiality issues. He also reiterated that the department uses the data for emergency recovery purposes and that the Ordinance does not provide that it recover records that a certain employee or department had deleted.

Member Craven-Green said the parties are at an impasse and suggested Ms. O'Flynn to ask for emails of a particular date and essentially reduce the cost for recovery. Ms. O'Flynn was also told that if she had brought the case against the Mayor's Office of Housing, the Task Force could have found and ordered MOH to produce the records at its own expense.

Chair Knee emphasized the need for both parties to work together.

No further action required.

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Public Comment: None

3. 09018 Continued hearing on the status of the April 28, 2009, Order of Determination of Anonymous Tenants against the Department of Building Inspection.

Complainant Anonymous Tenants said the department has not followed the Order of Determination and has not produced the itemized cost analysis that allows them to charge \$6.50 for a page. An anonymous female speaker said DBI had promised the Task Force that they would provide the itemized cost analysis by July 1, 2009. That day, she said, has come and gone without any document being produced. The department should be ordered to produce the document, she added.

Respondent William Strawn of the Dep. of Building Inspection said his director revisited the fee schedule and decided to eliminate the \$6.50 fee, an action that the department conducts periodically. The department decided, he said, that they would not post the analysis on the website because they were not going ahead with the same fee rate.

Mr. Strawn also said he did not know how much the department was charging for a page, but agreed that he would provide justification if the charge was more than \$0.10 a page.

No motion was made.

Public Comment: None

Mr. Strawn did not rebut.

Anonymous Tenants said the new fee schedule posted by the department shows that it was charging \$0.15 a page.

Mr. Strawn said he was not aware that the new fee structure had been posted.

The committee suggested that Mr. Strawn email the Task Force the complete fee schedule and a detailed itemized of the cost if the amount is more than \$0.10.

Matter continued to August 11.

4. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force.

Chair Knee recalled that Barry Fraser had said representatives of the Dept. of Technology were not able to attend today's meeting. He also said Kimo Crossman had contacted him and relayed his frustration over the delay in formulating a policy. He also said the Committee On Information Technology was not meeting this month.

Member Craven-Green suggested inviting Director of Operations Richard Robinson to make a presentation at the next committee meeting. Chair Knee agreed.

Item continued to next meeting.

5. A proposal to add to the amendments a provision prescribing disciplinary measures against any attorney in the City Attorney's Office who knowingly provides erroneous advice to a City official, employee or entity on an open-government-related matter.

Chair Knee said the need arises from the fact that many times a department or agency will refuse to produce a record on the advice of the City Attorney's Office. The CAO and the Task Force see issues differently especially when it comes to releasing electronic documents in its native format.

DCA Llorente questioned who would determine the state of mind of an attorney giving advice to a client agency, who would determine that there was a knowing violation, who would be the disciplining party and who would defend the attorney. The topic, he said, is fraught with problems. He was interested in hearing the opinions of First Amendment attorneys.

Member Craven-Green said another issue is that it would conflict with the Civil Service regulations. She said it was a very complex and

heavily regulated area when it comes to disciplining a government employee. She suggested including it in Article IV, but that the final decision to produce or to not produce a record lies with the city agency and not the city attorney.

Public Comment: None

Chair Knee said the issue would be discussed at a later date.

6. Continued discussion on the proposed amendments and annotations to the Sunshine Ordinance.

Members discussed the document and made changes to Pages 6, 7, 26, 34 and 73. Member Craven-Green said she would make the suggested changes.

Chair Knee said he is expanding the committee's membership to five because a number of Task Force members have shown interest. He also intends to remain on the committee.

Public Comment: None

Item continued to August meeting.

7. Administrator's Report.

Mr. Ruston made the report

Public Comment: None

8. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible.

Public Comment: None

9. Announcements, questions, and future agenda items from Committee members.

Chair Knee said former Ethics Commissioner Joe Lynn is out of the hospital and in good health.

Adjournment The meeting adjourned at 5:15 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING AGENDA**

Tuesday, August 11, 2009
4:00 p.m., City Hall, Room 406

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Committee Members: Erica Craven-Green (Chair), Kristin Chu, Doyle Johnson, Richard Knee, Allyson Washburn

Notes: Public comment on items not listed on the agenda (Item # 6) will be taken at 5:00 p.m. or as soon thereafter as possible.

Call to Order, Roll Call, Agenda Changes

1. Approval of July 14, 2009, regular meeting minutes (action)(attachment)
2. 09018 Continued hearing on the status of the April 28, 2009, Order of Determination of Anonymous Tenants against the Department of Building Inspection (discussion and possible action item) (attachment)
3. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force (discussion and possible action item)
4. Continued discussion on the proposed amendments to the Sunshine Ordinance. (discussion and possible action item) (attachment)
5. Administrator's Report. (discussion only) (attachment)
6. Public Comment on items not listed on the agenda. (no action) (no attachment)
7. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: Sept. 8, 2009

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (Section 67.16)

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- | | |
|---|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |
| <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. Matter is with the Task Force for discussion and questions. | |
| 4. Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. Matter is with the Task Force for motion and deliberation. | |
| 6. Public comment (Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 7. Vote by Task Force (Public comment at discretion of chair on new motion and/or on new motion if vote fails.) | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

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August 11, 2009

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING MINUTES
Tuesday, August 11, 2009
4:00 p.m., City Hall, Room 406**

Committee Members: Erica Craven-Green (Chair), Kristin Chu, Doyle Johnson, Richard Knee, Allyson Washburn

Call to Order: 4:03 p.m.

Roll Call: Present: Craven-Green, Johnson, Knee, Washburn (in at 4:05)

Excused: Kristin Chu

Deputy City Attorney: Ernie Llorente (excused)

Clerk: Chris Rustom

Agenda Changes: None

1. Approval of July 14, 2009, regularly scheduled meeting minutes.

Motion to approve the July 14, 2009, meeting minutes (Knee / Johnson)

Public Comment: None

On the motion:

Ayes:, Johnson, Knee, Craven-Green

Excused: Chu

Absent: Washburn

2. 09018 Continued hearing on the status of the April 28, 2009, Order of Determination of Anonymous Tenants against the Department of Building Inspection.

Mr. Rustom said the parties in the case were not notified of the hearing. However, the complainant was in the audience.

Complainant Anonymous Tenants said the department has claimed that they had an itemized cost analysis that allowed them to charge \$6.50 for a copy of a document but have not produced it. The department, with the help of the City Attorney's Office, also ignored the Task Force's Order of Determination that required the production of the analysis, he said. Finally, to avoid producing the document the department removed the \$6.50 fee, he said. All of this, he said, were violations of the Ordinance and should be found as such. An anonymous female said the department ignored the Task Force by continuing to charge the public \$6.50 per copy between April 28 when the order was issued and July 30 when DBI decided to reduce the fee. The analysis must be released because the public needs to know the reasoning behind the higher charges. During a recent visit, she said, she was charged \$3.00 for a copy of a document stored in a computer. She urged members to force the department into compliance.

Member Knee on questioning the anonymous female was told that the \$3.00 fee was for a different kind of document and not for a photocopy.

Chair Craven-Green said a document provided by the complainant shows that the department has complied with the Order of

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Determination because the \$6.50 fee has been replaced with the amount mandated by the Ordinance. On the \$3.00 fee, she said it was for a different kind of document and was a different issue.

Member Knee said Mr. William Strawn of the department was asked at the previous meeting to produce a detailed cost analysis for any fee that cost more than \$0.10 a copy. Based on the submissions, the department has not met the requirement, he said.

Member Washburn said she agreed with Member Knee.

Chair Craven-Green said the department has not given an explanation for fees that cost more than \$0.10. However, she said, the department has confirmed that they are charging only \$0.10 for photostatic copies which is the subject of the complaint.

Public Comment: Peter Warfield said he felt the public was being let down because of an earlier exchange between members discussing the matter. To limit the issue only to photocopying charges is not a good decision, he said. He also read from Section 67.30 (c).

No motion was made.

No further action necessary.

3. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force.

Chair Craven-Green and Member Knee said one of the reasons Mr. Richard Robinson, who is chief operations officer for the Department of Technology and chair of a Committee on Information Technology subcommittee, was invited was that the committee wanted to know about the city's transition from the Lotus Notes platform to the Microsoft Exchange environment as well as the aspects on what was feasible technologically and fiscally when it came to email retention, storage, backup, archiving and retrieving electronic documents.

Mr. Robinson said for a balance of what is technically feasible and what is fiscally feasible is technically an email can be saved in some format in perpetuity. The reality of that is it starts to come with a significant fiscal cost for storage, retention, and overtime. One of the things that is also absent is a clear policy on what data retention term should be from the City Attorney's Office, he said, and is one issue that the Department of Technology struggles with. The department has a finite amount of capacity in which to store emails in the system that it has. At some point in time it reaches that capacity. It is now close to 98 percent of capacity and the ability to continue to maintain is becoming problematic. One of the processes they do is ask people to archive locally some of their emails on their own volition. There was no clear outline policy from the City Attorney's Office whether employees would do and how long those emails are to be retained. The city, he said, also has several email platforms. Some departments rely on Microsoft Exchange and then there are some departments that have their own environments where they retain and administer with their own policies. He said the city has made a declaration, and the department voted from a policy prospective, to move off the existing Lotus Notes platform which is in house to a hosted Microsoft Exchange environment. The city will not be hosting the physical infrastructure. It will be hosted by a larger aggregate provider but the departments will still be able to administer the names and identities.

Chair Craven-Green wanted to know if there was a timeframe and when feasibly would it be in place.

Mr. Robinson said the estimate to move the city off of the Notes environment to a hosted exchange was about \$3 million but since \$2.5 million of cut they are left with less than \$1 million to go forward. He said there was another component that's more technical in nature: the implementation of an active directory structure. The department believes they can actually get that piece done and start to move and migrate some departments to a hosted exchange. It would not be done in its totality but they believe they can move forward as funds become available later in the year.

Chair Craven-Green wanted to know when the first department will be moved.

Mr. Robinson said he could not provide a date but for his part it would be yesterday.

He said it was very frustrating to have to host two environments. Compounding the issue was that the City was in the process of moving its data center from 1 Market Plaza.

Member Knee wanted to know who or what determines which department shifts to Microsoft Exchange first. He wanted to know if it was a first come first serve basis or were there some criteria being set.

Mr. Robinson said there was prioritization and was based on a couple of things and need was one. The Police Department has a high need.

The Department of Public Health and related health services have a need because they are sitting on ageing infrastructure. There were plans to move about 10 to 11 thousand users but with the shift in budget the department needs to come up with some evaluation criteria.

Member Knee wanted to know if the department would approve the Task Force's wish to move to the new environment just because it happened to be the first to ask or would the Task Force have to establish the need for urgency.

Mr. Robinson said the ease of it was also at play because moving 10 or 15 people could be done relatively quickly. However, the challenge is that the department has a small staff for it as it has only three people in email administration. His recommendation was for the Task Force to contact the helpdesk to and get in the request to the email group and start the communication. One of the things that the department has not been able to do was going out and being overly proactively setting up the prioritization because they don't know how much money is going to be left at the end of the day.

Chair Craven-Green also wanted to know if the department was looking at how it would respond to issues of backing up emails, to restoring emails that have been deleted, to the ability to search for emails in response to a court order, a discovery order from a court in litigation against the City or for requests from the Task Forces body the SOTF. She also wanted to know if there was a way that the Task Force could work with the department to go inside the issue because what Task Force did not want was what is in the system, which by most accounts is particularly difficult to restore emails particularly difficult to search for in response to subject matter emails that maybe subject to a court order or maybe a subject of a Sunshine request.

Mr. Robinson said he is a big proponent of requirements. If something isn't defined, it's hard to deliver it, he said. He also said that the department had put out an RFP to have a consulting group come in and work with the departments to determine what their legal requirements were. Those requirements would be codified into the RFP that will go out for the hosted services. He was hoping for a specific prescriptive set of business requirements from client departments, and a rationalization as to what those were as the department goes forward. They would also be in a position where they will have to figure out how to structure their services if one client department's retention requirement is higher than the others. Would they raise the bar to that level or do they disaggregate the requirements and offer a different level of services? He would prefer that they raise the bar and keep it across the board for all departments. The process was in place if only for the funding issue.

Member Knee said the Task Force would like to establish a good strong relationship with COIT

Mr. Robinson said the department also has to look at other components which included disaster recovery. He said the department is keenly aware of the pain departments go through when they get a disclosure request and would like to make sure that they thought about that in the architecture of the system.

Member Washburn urged the department to not only to consider the business requirements of the various agencies and the laws that govern them but also the public, which is another big constituency and probably the main one.

Mr. Robinson said they are open and transparent and that message comes from the Mayor. He said he would be happy to have the Task Force on board as they go forward.

Member Washburn said she was concerned about individual employees on managing email since there was a capacity problem and no guidelines for it.

Mr. Robinson said there is a limited threshold and it was left to the employees to do deletions so they can continue receiving and sending emails with or without attachments. That was the only formal policy that the department has on the issue, he said.

Chair Craven-Green wanted to know what could be done since the consultant was the one who would work out the details of what the departments needed. The consultants, she said, should also be looking at what the public wants and the requirements of the Public Records Act and the Sunshine Ordinance.

Mr. Robinson said since emails would fall under operations and infrastructure, he would be the person to talk to. He suggested the Task Force attend the COIT sub-committee and main meetings, submit an item for the agenda so the Task Force could talk to the client departments and to start codifying the requirements so that it could be passed on to the consultants and be used when they aggregate the requirements. He also suggested the Task Force made sure that they sit down and talk to the consultants as part of the gathering requirement phase.

Public Comment: None

The committee thanked Mr. Thompson and Kim Thompson from the email and database group for their presentation.

The committee further discussed the issue and instructed Member Washburn to research best practices taken by the state and feds. Member Knee was instructed to talk to the Clerk of the Board.

Item continued to next month.

4. Continued discussion on the proposed amendments to the Sunshine Ordinance.

Chair Craven-Green was told that there were some small errors to change in the amended ordinance and she would email the changes to Mr. Rustom.

She also said she would finalize the cover letter by the next meeting but still needs the dates on which the committee met with DCA Paul Zarefsky and Susan Mizner of the Mayor's Office on Disability.

The committee continued discussing the proposed amendments, especially passive meetings, public comment, anonymity, supervisor of public forums, hearing attendance, speaker time

Chair Craven-Green asked members to continue scrutinizing the amendment and look for discrepancies and clarify ambiguities.

Public Comment: None

5. Administrator's Report.

Mr. Rustom made the report. He also informed the committee that New America Media has nominated Susanne Manneh to be their representative.

Public Comment: None

6. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible.

Public Comment: None

7. Announcements, questions, and future agenda items from Committee members.

Member Johnson discussed Supervisor Eric Mar's legislation to close loophole on post employment for City Commissioners.

Public Comment: None

Adjournment The meeting adjourned at 5:52 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE**

DRAFT MEETING AGENDA

Tuesday, September 8, 2009

4:00 p.m., City Hall, Room 406

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Committee Members: Erica Craven-Green (Chair), Kristin Chu, Doyle Johnson, Richard Knee, Allyson Washburn

Notes: Public comment on items not listed on the agenda (Item # 10) will be taken at 5:00 p.m. or as soon thereafter as possible.

Call to Order, Roll Call, Agenda Changes

1. Approval of August 11, 2009, regular meeting minutes (action)(attachment)
2. 09032 Hearing on the status of the July 28, 2009, Order of Determination of Dominic Maionchi against the Department of Recreation and Park (discussion and possible action item)(10 min)
3. 09031 Hearing on the status of the August 25, 2009, Order of Determination of Kenneth Kinnard against the Human Rights Commission (discussion and possible action item)(10 min)
4. 09038 Hearing on the status of the August 25, 2009, Order of Determination of Anmarie Mabbutt against the Department of Recreation and Park (discussion and possible action item)(10 min)
5. 09042 Hearing on the status of the August 25, 2009, Order of Determination of Peter Warfield against the Public Library (discussion and possible action item)(10 min)
6. 09044 Hearing on the status of the August 25, 2009, Order of Determination of Peter Warfield against the Board of Appeals (discussion and possible action item)(10 min)
7. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force (discussion and possible action item)
8. Continued discussion on the proposed amendments to the Sunshine Ordinance. (discussion and possible action item) (attachment)
9. Administrator's Report. (discussion only) (attachment)

10. Public Comment on items not listed on the agenda. (no action) (no attachment)
11. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: Oct. 13, 2009

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |
| <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. Matter is with the Task Force for discussion and questions. | |
| 4. Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. Matter is with the Task Force for motion and deliberation. | |
| 6. Public comment <i>(Excluding Complainant & City response, witnesses)</i> | Up to 3 minutes each |
| 7. Vote by Task Force <i>(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)</i> | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE: Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Administrator by mail to: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854; or by email at softi@sfgov.org.

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September 8, 2009

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE**

MEETING MINUTES

Tuesday, September 8, 2009

4:00 p.m., City Hall, Room 406

Committee Members: Erica Craven-Green (Chair), Kristin Chu, Doyle Johnson, Richard Kneec, Allyson Washburn

Call to Order: 4:00 p.m.

Roll Call: Present: Craven-Green, Chu, Kneec

Excused: Johnson, Washburn

Deputy City Attorney: Ernie Llorente (excused)

Clerk: Chris Rustom

Agenda Changes: 10 heard after 5

1. Approval of August 11, 2009, regular meeting minutes.
Motion to approve August 11, 2009, regular meeting minutes. (Kneec / Chu)
Public Comment: None
On the motion:
Ayes: Chu, Kneec, Craven-Green
Excused: Johnson, Washburn
2. 09032 Hearing on the status of the July 28, 2009, Order of Determination of Dominic Maionchi against the Department of Recreation and Park.
Chair Craven-Green noted that documents provided at the meeting by Mr. Dominic Maionchi and Olive Gong of the Department of Recreation and Park showed that the documents were released after the Order of Determination was issued.
Public Comment: None
No further action
3. 09031 Hearing on the status of the August 25, 2009, Order of Determination of Kenneth Kinnard against the Human Rights Commission.
Chair Craven-Green noted that a document provided at the meeting by Melinda Kanios of the HRC indicates that she will be unable to attend the meeting and that the box that contains the information has been ordered from storage.
Motion to continue to next regular meeting.
Public Comment: None
On the motion:
Without objection
4. 09038 Hearing on the status of the August 25, 2009, Order of Determination of Anmarie Mabbutt against the Department of Recreation and Park.
Complainant Anmarie Mabbutt said she submitted her reprioritized list to Olive Gong of the Department of Recreation and Park on August 27. The new list resembles the old list but with a few changes. She also said the department has not stated in writing that a particular meeting did not take place and therefore no minutes were available. She said she found that several documents that should have taken minutes to approve for release were held for several days before release. She then provided a status report on all of her Immediate Disclosure Requests. She also added that she has submitted more requests since the last Task Force meeting.

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Respondent Olive Gong, Custodian of Records for the Department of Recreation and Park, said the department continues to respond and work with the complainant. She also said the deadlines cannot be met because of the voluminous and complicated nature of the complainant's requests.

Chair Craven-Green noted that the complainant has narrowed her requests in 64-66 and 73-79 to 2007 through 2009 to ease the burden on the department. She also noted that there was a good-faith effort on both sides to solve the issue and recommended both sides to continue to work together.

Chair Craven-Green added that the item would be taken off calendar but would be added to the next regular meeting's agenda if Ms. Mabbutt felt that there wasn't any substantive compliance.

Member Knee suggested Ms. Gong inquire within the department as to when the documents could be produced and to notify Ms. Mabbutt and the Task Force by email on the approximate date.

Public Comment: Peter Warfield said departments have to respond to requests the way the Ordinance mandates.

Ms Gong did not rebut. Ms Mabbutt said any member of the public can make an infinite amount of requests for documents if he or she so pleases. The misconduct she sees at the department is what motivates her, she added.

Chair Craven-Green restated that the item is now off calendar.

5. 09042

Hearing on the status of the August 25, 2009, Order of Determination of Peter Warfield against the Public Library.

Chair Craven-Green mentioned that the Library had submitted a letter stating that they would not be appearing before the committee.

Respondent Peter Warfield said he has not heard from the library even though the September 4, 2009, letter from the Library to the Task Force states that the documents would be provided. He also said the letter suggests that the information he sought was being limited to the preliminary stage and does not include the plan as it progresses. Non-attendance is also a violation of Sec. 67.21, he added. He urged the committee to send the matter to the Task Force for referral to the District Attorney and the State Attorney-General under Sec 67.21 (e).

Member Knee suggested referring this item to the full Task Force without recommendation. If there is compliance, nothing happens, he said. But if Mr. Warfield does not get the documents by September 22, the Task Force can then forward it for enforcement.

Chair Craven-Green and Member Chu disagreed because of the indications that the Library would comply and because the Order of Determination did not specify whether the response timeline was five calendar days or five business days.

Members continued discussing the issue and finally no motion was made.

In rebuttal, Mr. Warfield said he was dismayed by the discussion because Sec. 67.21 (e) addresses the timeline issue. The Library's absences also show that it is not a cooperative department, he said. The Task Force referral was important because it shows what the department is up to. What the enforcement agencies do with the referral was not important to him, he added.

Public Comment: None

Matter continued to October 13, 2009, meeting.

6. 09044

Hearing on the status of the August 25, 2009, Order of Determination of Peter Warfield against the Board of Appeals.

Chair Craven-Green noted that the Board of Appeals had submitted a letter and had stated among other things that they would not be appearing at the hearing.

Complainant Peter Warfield said he was in receipt of the letter that Chair Craven-Green mentioned. Mr. Warfield read from the letter that was addressed to the Task Force and said he was not happy with the position the Board of Appeals had taken. He was also displeased that the Board of Appeals had not followed the Order of Determination to appear before the committee.

Member Knee said the failure of the Board of Appeals to send a representative as required by the Order of Determination was troubling.

He also said he agreed with the complainant that the respondent was in open defiance of the Order of Determination by deciding the type of information they will redact or not redact.

Motion to refer the matter to the full Task Force for willful violation and the matter to be sent to the Ethics Commission for enforcement. (Knee /)

No second. Motion fails.

Chair Craven-Green said she the letter was problematic because it did not address the issue of names because Mr. Warfield was not able to get the names of the supporters and opponents of the demolition plans. She was of the opinion that addresses, phone numbers and email addresses of businesses and organizations are releasable. Home phone numbers are not releasable while email addresses used to contact the government must be released, she said.

On home addresses, she quoted a case regarding a contraceptive ad campaign where the court ruled that the recipient could put the ads in the trash if he or she objected to the subject matter. She was of the opinion that the same applied to emails whereas if the recipient did not like receiving email from a particular person or organization, the sender's email could be blocked and trashed.

Chair Craven-Green wanted the Board of Appeals to appear before the committee and confirm that names, business information and private email addresses would be released.

Motion to continue matter to next regular and ask Board of Appeals Executive Director Cynthia Goldstein to appear before the next regular meeting. (Craven-Green / Knee)

Member Chu said she preferred having an open conversation with the offending departments rather than sending the issue to an enforcement agency. She agreed with Chair Craven-Green's motion because sending matters to the Ethics Commission was ineffective.

In rebuttal, Mr. Warfield said there are many ways to prevent someone from contacting a person. He did not agree that home phone numbers could be redacted. He said regardless of the Supreme Court rulings, the Ordinance is very specific on what can and cannot be redacted.

On the motion:

Ayes: Chu, Knee, Craven-Green

Excused: Johnson, Washburn

7. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force.

Chair Craven-Green update members on the topic.

Public Comment: None

Matter continued to next regular meeting.

8. Continued discussion on the proposed amendments to the Sunshine Ordinance.

Chair Craven-Green thanked Member Knee for his additional work on the amendments. The committee then discussed his proposals.

Member Knee suggest the insertion of certain language in new Sec. 67.39(c), to read: "... as well as provide a detailed description of the records search conducted, and the statutory or case law basis for any decision to withhold or redact the records requested. or to bar public attendance at and/or participation in the meeting(s), as applicable."

Members agreed.

Public Comment: Peter Warfield wanted language that demands the person who withheld or redacted the records requested be present at the hearing.

The specific date referenced in Sec. 67.14(d) regarding digital recording of meetings to read: "Within six months of the enactment of this provision..."

Members agreed.

Public Comment: None.

To replace "Board of Supervisors" with "the voters of the City and County of San Francisco in new Sec. 67.23(e) which the drafters of Prop. G (November, 1999) should have changed.

Members agreed.

Public Comment: None

Clarifying time window in new Sec. 67.33-2 [old 67.29-4 (b)] to read: "No person shall be deemed a lobbyist ... unless that person receives or becomes entitled to receive at least \$300 total compensation in any 30-day period for influencing legislative or administrative action on behalf of the City and County..."

Members agreed.

Public Comment: Peter Warfield said more clarification was needed.

Members decided not to reword new Sec. 67.42 (a) (iv) as proposed by Member Knee.

Public Comment: Peter Warfield said the Ordinance should mandate that the violation and the department be listed on the Sunshine Ordinance Task Force website as well as on the agency's agendas and minutes for a fixed amount of time.

Members also decided not to change language in new Sec. 67.43(f) [old 67.35(c)] regarding the recovery of "reasonable attorneys' fees and costs."

Public Comment: None.

Other changes agreed upon were:

Pg 46, Ln 12: "Sunshine Commission ~~for Open Government~~"

Pg 51, Ln 3: Provision should say "shall" instead of "should"?

Pg 57, Ln 16: "body is"

Pg 67, Ln 6: "San Francisco residents members of the public" should be "~~San Francisco residents members of the public~~".

Pg 72, Ln 8: "...cause_Each"

Pg 108, Ln 13: "Each Department's and policy bodies's"

Pg 113, Ln 16: "maintained and preserved"

Matter continued to next regular meeting.

9. Administrator's Report.

Mr. Ruston made the report.

Public Comment: None

10. Public Comment on items not listed on the agenda.

Public Comment: Peter Warfield said the issues that come before the Task Force and its committees are very important to the complainants. In the case of the Library it is about the life and death of the city's assets and therefore he is eagerly seeking prompt decisions from the Task Force.

11. Announcements, questions, and future agenda items from Committee members.

Public Comment: None

Adjournment

The meeting adjourned at 6:20 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



<http://www.sfgov.org/sunshine>

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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OCT - 9 2009

SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING AGENDA

Tuesday, October 13, 2009
4:00 p.m., City Hall, Room 406

SAN FRANCISCO
PUBLIC LIBRARY

Committee Members: Erica Craven-Green (Chair), Kristin Chu, Doyle Johnson, Richard Knee, Allyson Washburn

Notes: Public comment on items not listed on the agenda (Item # 13) will be taken at 5:00 p.m. or as soon thereafter as possible.

Call to Order, Roll Call, Agenda Changes

1. Approval of September 8, 2009, regular meeting minutes (action)(attachment)
2. 09033 Hearing on the status of the July 28, 2009, Order of Determination of Sue Cauthen against the Library Commission. (discussion/action) (attachment) (10 min)
3. 09031 Hearing on the status of the August 25, 2009, Order of Determination of Kenneth Kinnard against the Human Rights Commission (discussion and possible action item)(10 min)
4. 09038 Hearing on the status of the August 25, 2009, Order of Determination of Anmarie Mabbutt against the Department of Recreation and Park (discussion and possible action item)(10 min)
5. 09042 Hearing on the status of the August 25, 2009, Order of Determination of Peter Warfield against the Public Library (discussion and possible action item)(10 min)
6. 09044 Hearing on the status of the August 25, 2009, Order of Determination of Peter Warfield against the Board of Appeals (discussion and possible action item)(10 min)
7. 09039 Hearing on the status of the September 22, 2009, Order of Determination of Rita O'Flynn against the Mayor's Office on Housing (discussion and possible action item)(10 min)
8. 09046 Hearing on complaint filed by Randall Evans against the Ella Hill Hutch Community Center for allegedly not providing documents under Chapter 12L. (discussion and possible action item)(10 min)
9. 09050 Hearing on the status of the September 22, 2009, Order of Determination of Randall

Evans against African American Art and Culture Complex. (discussion and possible action item)(10 min)

10. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force (discussion and possible action item)
11. Continued discussion on the proposed amendments to the Sunshine Ordinance. (discussion and possible action item) (attachment)
12. Administrator's Report. (discussion only) (attachment)
13. Public Comment on items not listed on the agenda. (no action) (no attachment)
14. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: Nov. 10, 2009

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (*Section 67.16*)

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Persons wishing to comment at meetings of the Task Force and its committees are encouraged to fill out speaker cards to ensure accuracy of identification. This is not a requirement; speakers may remain anonymous.

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| | <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. | Matter is with the Task Force for discussion and questions. | |
| 4. | Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. | Matter is with the Task Force for motion and deliberation. | |
| 6. | Public comment (<i>Excluding Complainant & City response, witnesses</i>) | Up to 3 minutes each |
| 7. | Vote by Task Force (<i>Public comment at discretion of chair on new motion and/or on new motion if vote fails.</i>) | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

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October 13, 2009

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE**

MEETING MINUTES

Tuesday, October 13, 2009

4:00 p.m., City Hall, Room 406

Committee Members: Erica Craven-Green (Chair), Kristin Chu, Doyle Johnson, Richard Knee, Allyson Washburn

Call to Order: 4:03 p.m.

Roll Call: Present: Craven-Green, Chu, Johnson, Knee, Washburn

Deputy City Attorney: Jerry Threet

Clerk: Chris Rustom

Agenda Changes: Items 7, 9 and 13 heard after Item 2

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1. Approval of September 8, 2009, regular meeting minutes.
 Motion to approve September 8, 2009, regular meeting minutes. (Knee / Johnson)
 Public Comment: Peter Warfield of the Library Users Association said the minutes should not be approved because his comments on the proposed amendments were not included. The minutes, he said, only reflected that he was given the opportunity to participate.
 Motion to include Mr. Warfield's comments and to continue item to next month. Without objection.
2. 09033 Hearing on the status of the July 28, 2009, Order of Determination of Sue Cauthen against the Library Commission.
 Complainant Sue Cauthen played a video segment that showed Jewel Gomez, the President of the Library Commission, instructing her to limit her comments on the North Beach Library until the item was called. She said her comment was on a general issue and not specific to the branch. She added that since the Commission has not attended follow up meetings she worried the behavior would continue.
 The Library Commission was not represented.
 Members then debated the merits and demerits of forwarding the matter to the Ethics Commission.
 In closing, Ms. Cauthen said a referral to the Ethics Commission may not be the best avenue, but for the good of the public the Commission should not be let off easy. Ms. Gomez' action did have a chilling effect on the audience, she said. She was also troubled by the fact that Commission agents have not attended Committee meetings.
 Motion for Chair to write a letter to the Library Commission and cc the Mayor (Chu / Knee)
 Member Washburn offered a substitute motion.
 Motion to refer this matter back to full Task Force for referral to the Ethics Commission on the basis of the willful failure as official misconduct based on the actions of the President of the Library Commission. (Washburn / Knee)
 Public Comment: Randall Evans said the Task Force should use its power and weight to help citizens get a copy of the public documents they were denied or redacted. Ace Washington said the Task Force is the community's only avenue to reverse the ways people are treated by people holding high office. And amendments be made if the Ordinance does not have enough teeth. Peter Warfield of the Library Users Association was pleased with members' acknowledgement of the Library's violations. He urged the Task Force to take the strongest possible action against the Library and said the Task Force should file a complaint against the Library for not appearing at meetings
 On the motion:
 Ayes: Johnson, Knee, Washburn, Craven-Green
 Noes: Chu
3. 09031 Hearing on the status of the August 25, 2009, Order of Determination of Kenneth Kinnard against the Human Rights Commission.

Chair Craven-Green read an email sent to the Sunshine office that stated Melinda Kanios of the Human Rights Commission had the documents ready to be delivered to the complainant.

Chair Craven-Green asked Mr. Kinnard to contact Ms. Kanios to see how the documents would be delivered. She then asked him to contact the Sunshine office if he believed that the Order of Determination was met in order for the item to be calendared for the next regular meeting.

Public Comment: None.

4. 09038 Hearing on the status of the August 25, 2009, Order of Determination of Anmarie Mabbutt against the Department of Recreation and Park.

Complainant Anmarie Mabbutt explained the nature and reason of the exhibits that she submitted earlier.

Respondent Olive Gong of the Department of Recreation said Park she continues to work with the complainant to help her get what she needs and recently handed over more than 500 pages.

In closing, Ms. Gong wanted to know if there was an acceptable search period for agenda packets that date back more than a decade. Ms. Mabbutt wanted to know that if she had to file a new complaint if the 14-day extension was exhausted and no documents were forthcoming.

To Ms. Gong, Chair Craven-Green said the department, depending on its retrieval policy, has to use its best efforts to get the information. To Ms. Mabbutt, she said a new complaint needs to be filed.

Public Comment: Peter Warfield said the number of pages produced does not necessarily mean that was the total number of documents retrieved and copied because in his case he requested a copy of a packet agenda and was provided with one which had over 400 pages.

Parties encouraged to work together. No further action.

5. 09042 Hearing on the status of the August 25, 2009, Order of Determination of Peter Warfield against the Public Library.

Complainant Peter Warfield of the Library Users Association said he asked for Park Branch renovation plans and was able to look at the 50 percent construction plan but when he asked for copies he was denied the document. After the Library was found in violation, the Library said it would provide the complainant with a copy but was then told that the plans had been destroyed.

The Library was not represented.

Mr. Rustom informed the Chair that he had called Sue Blackman as instructed and left her a message inquiring if she had provided Mr. Warfield with the 50 percent construction documents. Ms. Blackman called back to say she had done so, he said.

Following further clarification from Mr. Warfield, members discussed the issue further and a motion was made.

Motion requesting Chair Craven-Green to write a letter to the Library expressing displeasure at their failure to appear at the hearings, why documents were not provided and why an unusable copy of a draft was provided after five days. The Library was also to respond as to when the original was deleted and could it provide full-sized copies of the blueprint. If the Library does not respond within five days following receipt of the letter, the Compliance and Amendments Committee is to recommend a hearing at the next full Task Force meeting. (Washburn / Johnson)

Public Comment: None

On the motion:

Ayes: Johnson, Knee, Washburn

Noes: Chu, Craven-Green

6. 09044 Hearing on the status of the August 25, 2009, Order of Determination of Peter Warfield against the Board of Appeals.

Complainant Peter Warfield said he was very disappointed by the Committee which is granting five-day extensions followed by month-long delays when the Ordinance specifically says what should be done when there is non-compliance. In this case, he said, the respondent has already said it will defy the Order of Determination.

Mr. Warfield clarified for Member Knee that the Board of Appeals is now redacting only emails and phone numbers of individuals. And that meant that the Order of Determination was not met, he said.

Motion to send matter to the full Task Force with a finding of a willful violation of 67.30 (c) and 67.34, and recommending a referral to the Ethics Commission for further enforcement and investigation based on the failure to comply with the Order of Determination with respect to redaction of email addresses only. (Craven-Green / Knee)

Member Knee made a friendly amendment to add 67.21 (c) for failure to appear. It was accepted.

In closing, Mr. Warfield said, he supports referring the respondent to whichever higher authority for enforcement the Task Force decides. He also remarked that the department, with the assistance of an unnamed attorney, changed its rules regarding public documents one day after he visited the department.

Public Comment: None

On the motion:

Ayes: Johnson, Knee, Washburn, Craven-Green

Noes: Chu

7. 09039 Hearing on the status of the September 22, 2009, Order of Determination of Rita O'Flynn against the Mayor's Office on Housing.

Mr. O'Flynn said he was in attendance to hear the progress the Mayor's Office has made since the issuance of the Order of Determination.

Respondent Douglas Shoemaker of the Mayor's Office of Housing said the office believes it has supplied all the emails in their possession but following the issuance of the Order of Determination the office is going to replicate all the emails within the time period the O'Flynn's have requested on a rolling basis.

Chair Craven-Green asked Mr. Shoemaker to work with the Department of Technology to get a snapshot of Miss Myrna Melgar-Iton's email inbox during the time frame covered by the request and to search for emails that deal with the subject matter as requested by the n O'Flynn's.

Mr. Shoemaker agreed to, but on a rolling basis.

In response, Mr. O'Flynn said Mr. Shoemaker and Department of Technology do not know if any member of MOH deleted an email. To solve the issue, he said, it was important to get the source records restored. He wanted dates the Department of Technology had taken snapshots of, and from that list of dates he could narrow it down to a priority list.

Public Comment: None

Continued to next meeting. Without objection.

8. 09046 Hearing on complaint filed by Randall Evans against the Ella Hill Hutch Community Center for allegedly not providing documents under Chapter 12L.

Ace Washington, on behalf complainant Randall Evans, said he has been a long-time activist in the Western Addition. The Center has seen a lot of changes, he said, and the latest turnover was last year when the Mayor's Office had to step in and take control. The information he and Mr. Evans seeks, he said, is very important because they are also activists at the center and want to know who's who on the board, what their funding sources are and where was the money going.

No one else was in the audience.

Chair Craven-Green to write to the executive director of Ella Hill Hutch, Maria Su of DYCF and Dwayne Jones in the Mayor's Office explaining the situation and asking them for information the committee needs.

Matter continued to next regular meeting. Without objection.

Public Comment: Peter Warfield of the Library Users Association said the Task Force needs to look at creating a list that shows what characterization or body a particular entity falls under.

9. 09050 Hearing on the status of the September 22, 2009, Order of Determination of Randall Evans against the African American Art and Culture Complex.

Complainant Randall Evans said if any mention is made about the restraining order it would constitute slander and his attorney would act accordingly. He said Ace Washington took the request to African American Art and Culture Complex Executive Director London Breed. He said Rev Daniel Solberg, who is the secretary of the African American Unfinished Agenda Corporation, would have been the person to contact had the other party be responsive. He said he has received some information but not what he requested. He said the Art and Culture

Complex offers programs that benefit the community but ignores it. Mr. Washington said he is from the Western Addition, an area where redevelopment plans are seen as a project that displaces the local community. That is why, he said, he is supporting Mr. Evans's use of the Sunshine Ordinance to collect more information so that the community can decide its future. He said City officials are at the Art and Culture Complex talking about how Federal monies are going to be used in the community but the Art and Culture Complex representatives are not returning the favor by appearing before the Task Force. He added that he is using tools available to the community to ward off big developers uprooting his community.

Respondent Jill Manton of the Arts Commission handed the Task Force a copy of what was provided to Mr. Evans and said the documents had been vetted by a deputy city attorney. She said the Arts Commission believes that it has replied and responded to all of Mr. Evans' requests. She said the reason why there were few agendas and minutes in the package could possibly be because the building was being renovated for quite some time. The respondent, she said, was very cooperative and responded to all of the requests made by the Arts Commission regarding this matter. The Art and Culture Complex has met the requirements of Administrative Code 12L, she added.

Member Chu was told by Mr. Evans and Rev. Solberg that the documents are incomplete and do not give a full financial picture of the Art and Culture Complex. Rev. Solberg said the community has the right to know how monies provided by the City are being spent. He also added that while the Art and Culture Complex on Fillmore was being renovated the non-profit made use of a property on Turk Street.

Chair Craven-Green also told Mr. Evans that only certain types of documents have to be produced under 12L but the non-profit can voluntarily produce any kind of document it wants.

Chair Craven-Green asked Ms. Manton to inquire about the number of meetings the Art and Culture Complex had held between July 2008 and June 2009 because only two minutes have been produced. However, she added that Arts Commission may have other documents such as the Fillmore Complex lease, additional budgetary and tax returns that need to be produced.

In rebuttal, Ms. Manton that she will provide the documents to the Task Force as soon as possible.

Mr. Evans said he was dissatisfied because the Art and Culture Complex is allowed to control the release of documents. He wanted to know what he could tell the community on the outcome of this matter.

Public Comment: Peter Warfield said he was unfamiliar with the case but the practice of departments sending representatives who are not knowledgeable on the issue needs to be addressed by the Task Force because it presents a hindrance to justice.

Public Comment: Peter Warfield said the Task Force needs to address the issue of departments sending representatives not knowledgeable on the subject.

Chair Craven-Green said she would write a letter to the Art and Culture Complex and strongly recommend that they produce the list of employees and other documents Mr. Evans seeks. She would also inform the Arts Commission that it needs to produce documents it may have on the Art and Culture Complex.

10. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force.

Member Knece said COIT is to meet on Oct. 23, 2009. Member Washburn said she will be working to see what the standard is for federal and state agencies.

11. Continued discussion on the proposed amendments to the Sunshine Ordinance.

Chair Craven-Green said she will meet with Mr. Rustom before the next meeting to go over the procedures on how to make the changes to the amendments. She also asked members to review the amendments.

Public Comment: None

12. Administrator's Report.

Mr. Rustom made the report.

Public Comment: None

13. Public Comment on items not listed on the agenda.

Public Comment: Ace Washington said he and his fellow activists are trying to bring clarity and transparency to the community and in the process are running into Willie Brown cliques and Gavin Newsom cliques. The

Western Addition is tied up in a knot and it is badly in need of community reform, he said. Peter Warfield of the Library Users Association said the Task Force should schedule a special invitational meeting and select a subject to explain how Sunshine works for people in the real world.

14.

Announcements, questions, and future agenda items from Committee members.

DCA Threet, on Member Johnson's inquiry, said the City and County seal can be used on the flier because it is official communication of the Task Force. Public funds could be used to pay for the flier because it is a donation of public funds to the City for public use.

Public Comment: None

Adjournment

The meeting adjourned at 6:20 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine>

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SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING AGENDA

NOV - 9 2009

Tuesday, November 10, 2009
4:00 p.m., City Hall, Room 406

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Committee Members: Erica Craven-Green (Chair), Kristin Chu, Doyle Johnson, Richard Knee, Allyson Washburn

Notes: Public comment on items not listed on the agenda (Item # 11) will be taken at 5:00 p.m. or as soon thereafter as possible.

Call to Order, Roll Call, Agenda Changes

1. Approval of September 8, 2009, regular meeting minutes (action)(attachment)(5 min)
2. Approval of October 13, 2009, regular meeting minutes (action)(attachment) (5 min)
3. 09039 Hearing on the status of the September 22, 2009, Order of Determination of Rita O'Flynn against the Mayor's Office on Housing (discussion and possible action item)(15 min)
4. 09046 Hearing on complaint filed by Randall Evans against the Ella Hill Hutch Community Center for allegedly not providing documents under Chapter 12L (discussion and possible action item)(15 min)
5. 09051 Hearing on the status of the October 27, 2009, Order of Determination of Marilyn Mollinedo against the Zoological Society (discussion/action) (attachment) (15 min)
6. 09056 Hearing on the status of the October 27, 2009, Order of Determination of Peter Warfield against the Clerk of the Board (discussion and possible action item)(15 min)
7. 09057 Hearing on the status of the October 27, 2009, Order of Determination of Peter Warfield against the Clerk of the Board (discussion and possible action item)(15 min)
8. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force (discussion and possible action item) (15 min)
9. Discussion on the proposed amendments to the Sunshine Ordinance; specifically but not limited to Sections 67.15 (Public Testimony) and 67.35 (Responsibility for Administration) (discussion and possible action item) (attachment) (15 min)

10. Administrator's Report. (discussion only) (attachment)
11. Public Comment on items not listed on the agenda (no action) (no attachment)
12. Announcements, questions, and future agenda items from Committee members (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: Dec. 8, 2009

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be part of the official public record. (Section 67.7-1 (c))

Persons wishing to comment at meetings of the Task Force and its committees are encouraged to fill out speaker cards to ensure accuracy of identification. This is not a requirement; speakers may remain anonymous.

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |
| <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. Matter is with the Task Force for discussion and questions. | |
| 4. Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. Matter is with the Task Force for motion and deliberation. | |
| 6. Public comment <i>(Excluding Complainant & City response, witnesses)</i> | Up to 3 minutes each |
| 7. Vote by Task Force <i>(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)</i> | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE: Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Administrator by mail to: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from the Administrator or by printing Chapter 67 of the San Francisco Administrative Code from the Internet, at URL: http://www.sfgov.org/site/sunshine_page.asp?id=34495

Lobbyist Registration & Reporting Requirements: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; website: sfgov.org/ethics.

November 10, 2009

Select Language ▼

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE**

MEETING MINUTES

Tuesday, November 10, 2009

4:00 p.m., City Hall, Room 406

Committee Members: Erica Craven-Green (Chair), Doyle Johnson, Richard Knee, Allyson Washburn

Call to Order: 4:00 p.m.

Roll Call: Present: Craven-Green, Knee, Washburn

Excused: Johnson

Deputy City Attorney: Jerry Threat

Clerk: Chris Rustom

Agenda Changes: Item 11 heard before Item 6

1. Approval of September 8, 2009, regular meeting minutes
Motion to approve minutes (Knee / Washburn)
Public Comment: None
On the motion:
Ayes:;Knee, Washburn Craven-Green
Excused: Johnson

2. Approval of October 13, 2009, regular meeting minutes
Motion to approve minutes (Knee / Washburn)
Public Comment: None
On the motion:
Ayes:;Knee, Washburn, Craven-Green
Excused: Johnson

3. 09039 Hearing on the status of the September 22, 2009, Order of Determination of Rita O'Flynn against the Mayor's Office on Housing.
Complainant Rita O'Flynn said the Order of Determination directed that the Mayor's Office of Housing request the Department of Technology to restore Myrna Melgar-Iton's emails, and documentation she has received since then indicates that nothing has been done. The MOH has provided additional emails but not the ones she had reviewed originally, she said..She wanted the Committee to instruct the MOH to restore Ms. Melgar-Iton's emails from 2004 to the present and to have an outside agency do the redactions if necessary.
The Mayor's Office of Housing was not represented.
Members stressed the need for the department to be present because the Committee had questions.
Member Knee said the Committee could find MOH in willful violation but to do so would not be to Ms. O'Flynn's advantage.
Public Comment: None
Continued to December 8, 2009, meeting. Chair to write letter seeking explanation from MOH.
4. 09046 Hearing on complaint filed by Randall Evans against the Ella Hill Hutch Community Center for allegedly not providing documents under Chapter 12L
Complaint withdrawn.
5. 09051

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Hearing on the status of the October 27, 2009, Order of Determination of Marilyn Mollinedo against the Zoological Society

Complainant Marilyn Mollinedo said she has not received anything from the Zoological Society.

Respondent Tanya Peterson, executive director of the Zoological Society, said it would like to present its position in writing for reconsideration and if that was not possible, it would like to offer the complainant meeting minutes that would only reflect matters related to the operations of the Zoo.

To clarify, Ms. Peterson told Chair Craven-Green that the redactions would include ideas on fundraising, grants, exhibits and donor names. Motions that are made and sent to the full board would not be redacted.

To Member Kneec, Ms. Mollinedo said, having read past Executive Committee minutes, she was surprised by the Society's offer. She said she was only interested in some other issue going on at the Zoo.

Ms. Peterson did not have closing comments. Ms. Mollinedo said she was withdrawing her acceptance of the redacted minutes.

Public Comment: David Pilpel said he disagreed with the Task Force's finding that the Society became a public body through the Lease Management Agreement. That agreement does not mean that everything that is related to the Society is public, he said. The request for documents should have been made to the Department of Recreation and Parks, he added.

Motion to continue matter to December 8, 2009, meeting and to direct the Society to produce the redacted minutes (Craven-Green / Washburn)

On the motion:

Ayes: Kneec, Washburn, Craven-Green

Excused: Johnson

6. 09056 Hearing on the status of the October 27, 2009, Order of Determination of Peter Warfield against the Clerk of the Board.

Complainant Peter Warfield was not present.

Madeleine Licavoli, Deputy Clerk with the Office of the Clerk of the Board of Supervisors, said all general communications to the Clerk of the Board will not be redacted. On applications for boards and commissions, the home address, telephone and fax numbers, email, Social Security number and date of birth will be redacted. The home address will not be redacted if residency is required, she said. Form 700 will not be redacted, she added.

Members agreed that the Clerk of the Board had met the Order of Determination.

Public Comment: David Pilpel wanted to know if the policy extended to other offices under the Clerk of the Board, and would a member of the public have an option to remain anonymous if he or she had an opinion on a pending legislation.

Item concluded. No further action

7. 09057 Hearing on the status of the October 27, 2009, Order of Determination of Peter Warfield against the Clerk of the Board.

Chair Craven-Green noted that respondent Madeleine Licavoli, Deputy Clerk with the Office of the Clerk of the Board of Supervisors, has addressed the issue in the previous matter. Members however wanted to see the written policy before commenting further.

Public Comment: David Pilpel said the application should ask for the applicant's supervisory district number and that information should not be redacted. On Form 700, he said the document should be redacted the way the Ethics Commission does. He also wanted the City to provide email addresses for successful boards and commissions applicants.

Continued to December 8, 2009, meeting. Clerk to provide written policy.

8. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force.

Member Washburn said her research shows that the federal government does not have a uniform way on electronic document retention and management. She added that the National Archives and Records Administration is in the process of developing a policy.

Member Kneec said the Committee needs to work with the Committee On Information Technology.

Chair Craven-Green said she would contact COIT members to see where they were in their discussions on the needs of departments.

Continued to December 8, 2009, meeting.

9.

Discussion on the proposed amendments to the Sunshine Ordinance; specifically but not limited to Sections 67.15 (Public Testimony) and 67.35 (Responsibility for Administration).

Member Knee said a Supervisor Alioto-Pier aide has told him that the Supervisors would need the amendments by Dec 15 to make it to the June 2010 ballot. People are frustrated, he said, because the process has taken quite some time but that it was important to get a good package.

Member Knee said his proposal stems from the need to define the responsibilities of the Mayor and the Board of Supervisors.

Subject continued to the December 8, 2009, meeting for more discussion by members.

On 67.15:

Add "This provision shall apply to all meetings of the Board of Supervisors and its committees." after "Sec 67.7 (e) of this article." in 67.15 (a):

(b) starts with the deleted "However, in the case..." Delete the same in the next paragraph.

(c) says : "However, nothing in this subsection is intended to exempt Board of Supervisors committees from the general public comment requirements under subsection (a)."

Rename following paragraphs (d), (e) and (f) to (e), (f) and (g).

On Member Washburn's concerns:

p. 8, line 13 "Conduct of Business" too broad for this section? Sections 67.3 through 67.9 to be revisited at later date for clarity.

p. 13, line 19 Delete semicolon

p. 14, line 17 Undelete "are"

p. 15, line 10 Insert comma after "disaster"

p. 17, line 21 Delete (a; insert comma after "posted"

p. 17, line 22 Insert comma after "agency"

p. 24, line 13 to read:

"The materials that are distributed at the hearing shall be clearly legible. "

p. 24, line 16 Insert space after "Policy Body"

Page 32, line 10 to read:

If the public body determines that any part of the previously withheld materials can now be disclosed, it shall do so and identify in the body's minutes past closed session materials that are now disclosable.

p. 34, line 6 "residentsmembers" change to "members of the public." Also delete "San Francisco "

p. 34, line 21 Delete comma; correct date to "within six months of the enactment of this provision." (amended at Sept. 8, 2009, meeting)

p. 35 "public body" should be lowercase

p. 38, line 11 Insert comma after "chair"

p. 39, line 8 Insert space after period

p. 42, line 3 Replace "may" with "shall"

p. 52, line 9 to read:

Nothing in this section shall require a department to create a computer program or application to respond to a request for information, or take any action that would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

p. 52, line 11 insert "that" before "would"

p. 54, line 4 Change "which" to "that"

p. 54, line 16 Insert comma after "Ordinance"

p. 61, line 11-20 to read::

(8) All records regarding confirmed employee misconduct including records of any discipline and warnings imposed for such misconduct and all records regarding allegations of misconduct that are of a substantial nature and distinct from baseless or trivial, and where there is reasonable cause to believe that the complaint is well-founded.

p. 71, line 4-6 to read:

(c) Copies of video, audio, or digital recorded meetings shall be provided to the public upon request for the actual cost of materials (i.e., tape, disk, CD, DVD) only. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

p. 71, line 21 "and" should read "an"

p. 72, line 25 to page 74 read:

(5) Nothing in this section shall require a Department or Policy Body to create a new computer program or system to respond to a request for information or to provide access that would jeopardize or compromise the security or integrity of the original record or violate a licensing agreement or copyright law.

Delete page 51 (i) on 51 and 52 because it is mentioned on page 72 (5)

p. 73, line 7 Delete "to"

Change to "Access to Public Records"

p. 80, line 16 Change "maintain and preserve" to "maintained and preserved"

p. 91, line 4 Delete "and"

p. 93, line 7 Insert comma after first "and"

p. 94, line 20 Insert "of" after "violations"

p. 97, lines 3 "it." replaced by "in" and reword sentence to say "in its bylaws, criteria for selection oversight of appointed counsel and expenditures."

p. 99, line 21 Insert comma after "Ordinance"

p. 99, line 23 to say "records of such meeting. The burden ..."

Public comment: None

Continued to December 8, 2009, meeting

10. Administrator's Report.

Public Comment: None

11. Public Comment on items not listed on the agenda: Bred Star said she is seeking information from the City Attorney's Office regarding a 2004 investigation. She also said she has been getting the runaround from departments for the last 16 years.

12. Announcements, questions, and future agenda items from Committee members

Adjournment

The meeting adjourned at 7:30 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
MEETING AGENDA**

Tuesday, December 8, 2009
4:00 p.m., City Hall, Room 406

Committee Members: Erica Craven-Green (Chair), Doyle Johnson, Richard Knee, Allyson Washburn

Note: Public comment on items not listed on the agenda (Item # 9) will be taken at 5:00 p.m. or as soon thereafter as possible.

Call to Order, Roll Call, Agenda Changes

1. Approval of November 10, 2009, meeting minutes (action)(attachment)(5 min)
2. 09031 Hearing on the status of the complaint filed by Kenneth Kinnard against the Human Rights Commission for allegedly withholding information. (discussion and possible action item) (attachment) (15 min)
3. 09039 Hearing on the status of the September 22, 2009, Order of Determination of Rita O'Flynn against the Mayor's Office on Housing (discussion and possible action item) (attachment) (15 min)
4. 09051 Hearing on the status of the October 27, 2009, Order of Determination of Marilyn Mollinedo against the Zoological Society (discussion and possible action item) (attachment) (15 min)
5. 09057 Hearing on the status of the October 27, 2009, Order of Determination of Peter Warfield against the Clerk of the Board for withholding applicant information (discussion and possible action item) (attachment) (15 min)
6. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force (discussion and possible action item) (no attachment) (15 min)
7. Discussion on the proposed amendments to the Sunshine Ordinance (discussion and possible action item) (attachment) (15 min)
8. Administrator's Report. (discussion only) (attachment)
9. Public Comment on items not listed on the agenda (no action) (no attachment)

10. Announcements, questions, and future agenda items from Committee members (discussion only) (no attachment)

Adjournment

Next regularly scheduled meeting: Jan. 12, 2009

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a written summary of his/her comments, which, if no more than 150 words, shall be included in the minutes. (Section 67.16)

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- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties of Complainant present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |
| <i>(Above total speaking times for Complainant and City to be the same.)</i> | |
| 3. Matter is with the Task Force for discussion and questions. | |
| 4. Respondent and Complainant presents clarification/rebuttal | 3 minutes |
| 5. Matter is with the Task Force for motion and deliberation. | |
| 6. Public comment <i>(Excluding Complainant & City response, witnesses)</i> | Up to 3 minutes each |
| 7. Vote by Task Force <i>(Public comment at discretion of chair on new motion and/or on new motion if vote fails.)</i> | |

Note: Time must be adhered to. If a speaker is interrupted by questions, the interruption does not count against his/her time.

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Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

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December 8, 2009

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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE**

MEETING MINUTES

Tuesday, December 8, 2009

4:00 p.m., City Hall, Room 406

Committee Members: Erica Craven-Green (Chair), Doyle Johnson, Richard Knee, Allyson Washburn

Call to Order: 4:00 p.m.

Roll Call: Present: Craven-Green, Knee, Washburn

Excused: Johnson

Deputy City Attorney: Jerry Threet

Clerk: Chris Rustom

Agenda Changes: Item 9 heard before Item 6

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1. Approval of November 10, 2009, meeting minutes (action)(attachment)(5 min)
Motion to approve November 10, 2009, meeting minutes (Knee / Washburn)
Public Comment: None
On the motion:
Ayes: Knee, Washburn, Craven-Green
2. 09031 Hearing on the status of the complaint filed by Kenneth Kinnard against the Human Rights Commission for allegedly withholding information.
Complainant Kenneth Kinnard said he was seeking documents concerning West Bay Trucking and although he has received the bulk of his request, copies of correspondence between the HRC and the company were not included. Those documents, he said, are needed to support a case being heard in a Sacramento District Court regarding minority hiring.
The respondent was not represented. There was nobody in the audience to present facts and evidence in support of the respondent.
Chair Craven-Green was also told by the complainant that he was also seeking West Bay Trucking's gross receipt statements for the years 1999 thru 2003 as well as copies of correspondence between the HRC and Eighteen Trucking because he wanted to know if the two companies were sharing the same certification number.
After further discussion, Chair Craven-Green said she would inform Melinda Kanios, who previously represented the HRC, of the disparities and await her response.
Public Comment: None
Motion to correspond with the HRC regarding the remaining issues. Without objection.
3. 09039 Hearing on the status of the September 22, 2009, Order of Determination of Rita O'Flynn against the Mayor's Office on Housing.
Complainant Rita O'Flynn said her case so far shows that certain members of the Mayor's Office of Housing are willing to withhold certain documents and commit fraud and perjury regarding her property at 1672/1674 Great Highway. She said the Committee is aware that in February 2000, Myrna Melgar-Iton of the MOH testified under oath that she was not in receipt of an opt-out letter that Mr. Mark O'Flynn had sent. Yet, she said, it was subsequently revealed that Ms. Melgar-Iton was one of several people who were formulating a response to the letter. That letter should have been in the file and it was not, she said. MOH emails also show that there were payments made to a contractor in 2007 but no reason or explanation was provided. She wanted to be given the opportunity to review Ms. Melgar-Iton's fully-restored email folder.
The respondent was not represented. There was nobody in the audience to present facts and evidence in support of the respondent.

Chair Craven-Green said that whether the MOH complied with the HUD program was not an issue. What was relevant was whether the MOH complied with the Task Force's Order of Determination, which instructed MOH to restore Ms. Melgar-Iton's emails covering a certain period and search for emails regarding the property at 1672/1674 Great Highway. To know what was done and what the outcome depended on the presence of MOH representatives of which none were present, she said. She also said that MOH could be in full compliance with the Order of Determination but without their input nobody knew the truth.

Motion to forward the matter to the Task Force for a finding of willful violation under Section 67.30 for failure to comply with the Order of Determination, Section 67.34 for failure to produce responsive records and Section 67.21 (e) for failure to send a representative to the hearings. (Craven-Green / Knee)

Public Comment: Peter Warfield said should doubt arise the Sunshine Ordinance allows the Task Force to take the side of the public. He said MOH also violated another provision which says all documents must be kept in a professional and businesslike manner. Mark O'Flynn said his wife has been trying to obtain these records for over a year and has attended every Task Force hearing whereas the MOH has not. He said a strongly worded letter should be sent to the Mayor saying that this type of behavior was not acceptable. He urged the Committee to send the matter back to the full Task Force for appropriate action.

In closing, Ms. O'Flynn said the Task Force could contact her if additional information was needed to support her claim.

On the motion:

Ayes: Knee, Washburn, Craven-Green

4. 09051 Hearing on the status of the October 27, 2009, Order of Determination of Marilyn Mollinedo against the Zoological Society.

Complainant Marilyn Mollinedo said she has received copies of several minutes from the Zoological Society but was troubled by the lack of minutes for a particular meeting and the heavy redaction in those that were provided. She suggested that the person responsible for the redaction do it with a deputy city attorney so that rules are not broken.

Respondent Bob Jenkins with the Zoological Society said the redactions were based on issues related to donors, funding sources and strategies, disciplinary and attorney-client privilege.

Member Knee asked Ms. Mollinedo if she was satisfied with the Zoological Society's response. She said the requirements in the Order of Determination had been met and was satisfied.

Chair Craven-Green reminded Mr. Jenkins that records related to disciplinary issues were subject to release under state law. Mr. Jenkins said the person in question was an employee of a non-profit and not the city or state.

To Member Washburn, Mr. Jenkins said Ms. Mollinedo has not received a set of minutes because the document has not been voted on by the Executive Committee. She would be provided with a copy once it became available, he said.

Public Comment: Peter Warfield said the Sunshine Ordinance and the Public Records Act specify what can be withheld and strategies was not one of them. He added that justifications for the redactions were not provided. Matter concluded. No further action.

5. 09057 Hearing on the status of the October 27, 2009, Order of Determination of Peter Warfield against the Clerk of the Board for withholding applicant information.

Complainant Peter Warfield of the Library Users Association said he should have had a say on one of his two complaints regarding the redaction of names and addresses before it was determined by the Committee that the Order of Determination was met and no further action was necessary. He also said this complaint was not about applicant information but of contact information. Redaction results in delay, he added.

Respondent Madeline Licavoli, Deputy Clerk with the Clerk of the Board's Office, said the new policy has been implemented and came into effect Nov. 10, 2009.

To clarify, Ms. Licavoli said Mr. Warfield will be provided with information regarding members of the Library Citizens Advisory Committee because he is a member. For others, the document will be redacted, she said.

After further discussion, the Committee found that the Clerk of the Board had not met the requirements of the Order of Determination.

In closing, Ms. Licavoli said she would convey the Committee's sentiments to the Clerk. Mr. Warfield said the matter should be sent back to the Task Force for non-compliance.

Motion to refer matter back to the Task Force. (Knee / Craven Green)

Public Comment: None

On the motion:

Ayes: Knee, Washburn, Craven-Green

6. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force

Members discussed the topic and continued it to the Jan. 12, 2010, meeting.

Public Comment: None

7. Discussion on the proposed amendments to the Sunshine Ordinance.

Public Comment: Casey Joshua said the Task Force needs to let the voters know that the amendments are being discussed because many people depend on the Ordinance. An anonymous male said the Task Force does not follow its own policies and demands that the complainant prove why a particular document is disclosable and that this agenda item needs to be discussed in the public and not behind closed doors. Dan Boreen said calendars should not be limited to department heads but also to include management staff and that Sunshine needs to apply to public-private partnerships.

Item continued to Jan. 12, 2010, meeting.

8. Administrator's Report. (discussion only) (attachment)

Mr. Ruston made the report.

Public Comment: None

9. Public Comment on items not listed on the agenda

Peter Warfield said complainants should be informed on the outcome of a hearing if they are not able to attend the meeting. He also said the deadline for filing a complaint needs to be established and wanted to know the rationale why some cases are sent to the Compliance and Amendments Committee and some to the Education, Outreach and Training Committee.

10. Announcements, questions, and future agenda items from Committee members.

Member Knee said he may miss the Jan 26, 2010, Task Force meeting for medical reasons. He also said the local Society of Professional Journalists is seeking nominations for its James Madison Award. More information was available at spjchapters.org/norcal, he said.

Adjournment

The meeting adjourned at 5:45 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force



